

ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE

April 26, 2021

1:01 p.m.

MEMBERS PRESENT

Representative Matt Claman, Chair
Representative Liz Snyder, Vice Chair
Representative Harriet Drummond
Representative Jonathan Kreiss-Tomkins
Representative David Eastman
Representative Christopher Kurka
Representative Sarah Vance

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 142

"An Act relating to eligibility for the permanent fund dividend."

- MOVED CSHB 142 (JUD) OUT OF COMMITTEE

SPONSOR SUBSTITUTE FOR HOUSE JOINT RESOLUTION NO. 1

Proposing amendments to the Constitution of the State of Alaska relating to the Alaska permanent fund and to appropriations from the Alaska permanent fund.

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 142

SHORT TITLE: PFD ELIGIBILITY

SPONSOR(S): REPRESENTATIVE(S) MCCARTY

03/20/21	(H)	READ THE FIRST TIME - REFERRALS
03/20/21	(H)	STA, JUD, FIN
04/09/21	(H)	STA REFERRAL MOVED TO AFTER JUD
04/09/21	(H)	BILL REPRINTED
04/21/21	(H)	JUD AT 1:00 PM GRUENBERG 120
04/21/21	(H)	Heard & Held
04/21/21	(H)	MINUTE (JUD)

04/26/21 (H) JUD AT 1:00 PM GRUENBERG 120

BILL: HJR 1

SHORT TITLE: CONST AM: PERMANENT FUND; POMV; EARNINGS

SPONSOR(S): REPRESENTATIVE(S) KREISS-TOMKINS

02/18/21 (H) PREFILE RELEASED 1/8/21
02/18/21 (H) READ THE FIRST TIME
02/18/21 (H) SPONSOR SUBSTITUTE INTRODUCED
02/18/21 (H) READ THE FIRST TIME - REFERRALS
02/18/21 (H) STA, JUD, FIN
03/10/21 (H) W&M REPLACES STA REFERRAL
03/10/21 (H) BILL REPRINTED
04/13/21 (H) W&M AT 11:30 AM DAVIS 106
04/13/21 (H) Heard & Held
04/13/21 (H) MINUTE (W&M)
04/20/21 (H) W&M AT 11:30 AM DAVIS 106
04/20/21 (H) Moved CSSSHJR(W&M) 1 Out of Committee
04/20/21 (H) MINUTE (W&M)
04/22/21 (H) W&M RPT CS(W&M) 5DP 2DNP
04/22/21 (H) DP: WOOL, JOSEPHSON, SCHRAGE, STORY,
SPOHNHOLZ
04/22/21 (H) DNP: EASTMAN, PRAX
04/26/21 (H) JUD AT 1:00 PM GRUENBERG 120

WITNESS REGISTER

IAN LAING, Executive Director
Institute of the North
Anchorage, Alaska

POSITION STATEMENT: Presented during the hearing on HJR 1.

ANGELA RODELL, Chief Executive Officer
Alaska Permanent Fund Corporation
Juneau, Alaska

POSITION STATEMENT: Testified during the hearing on HJR 1.

EMILY NAUMAN, Deputy Director
Legislative Legal and Research Services
Legislative Affairs Agency
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HJR 1.

CHARLES MCKEE
Anchorage, Alaska

POSITION STATEMENT: Testified during the hearing on HJR 1.

CLIFF GROH

Anchorage, Alaska

POSITION STATEMENT: Testified in support of HJR 1.

ACTION NARRATIVE

[1:01:42 PM](#)

CHAIR MATT CLAMAN called the House Judiciary Standing Committee meeting to order at 1:01 p.m. Representatives Drummond, Snyder, Kreiss-Tomkins, and Claman were present at the call to order. Representatives Eastman, Kurka, and Vance arrived as the meeting was in progress.

HB 142-PFD ELIGIBILITY

[1:02:12 PM](#)

CHAIR CLAMAN announced that the first order of business would be HOUSE BILL NO. 142, "An Act relating to eligibility for the permanent fund dividend." [Before the committee, adopted as a working document on 4/21/21, was the proposed committee substitute (CS) for HB 142, Version 32-LS0491\I, Nauman, 4/19/21, ("Version I").]

[1:02:48 PM](#)

REPRESENTATIVE EASTMAN stated that he found it interesting that military members would be treated differently than other groups. He suggested that military members should not hold a lower priority than congressional workers or others working out of state.

[1:03:46 PM](#)

REPRESENTATIVE KREISS-TOMKINS expressed his support for HB 142.

[1:04:13 PM](#)

REPRESENTATIVE SNYDER moved to report CSHB 142, Version 32-LS0491\I, Nauman, 4/19/21 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 142(JUD) was reported out of the House Judiciary Standing Committee.

HJR 1-CONST AM: PERMANENT FUND; POMV;EARNINGS

[1:04:37 PM](#)

CHAIR CLAMAN announced that the final order of business would be SPONSOR SUBSTITUTE FOR HOUSE JOINT RESOLUTION NO. 1, "Proposing amendments to the Constitution of the State of Alaska relating to the Alaska permanent fund and to appropriations from the Alaska permanent fund." [Before the committee was CSSSHJR 1(W&M).]

[1:05:15 PM](#)

REPRESENTATIVE KREISS-TOMKINS, as prime sponsor, presented CSSSHJR 1(W&M), a proposed constitutional amendment that would create a simplified percent of market value (POMV) framework, combining the earnings reserve account (ERA) and the principal of the fund, and would create an unbreakable spending limit on how much the legislature may spend out of the fund in any single year. He stated that the resolution had been predicated on several resolutions and statements from the Alaska Permanent Fund Corporation's (APFC's) Board of Trustees and decades of contemplation of Alaska's fiscal future. He added that the resolution would be agnostic on the dividend and suggested that members may speculate on the future of dividends. He suggested that the passage of CSSSHJR 1(W&M) would limit the legislature to balancing the budget either through spending cuts or revenue increases and would not allow the legislature to spend down the permanent fund.

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CHAIR CLAMAN invited testimony and a presentation by the Institute of the North.

[1:07:25 PM](#)

IAN LAING, Executive Director, Institute of the North, presented to the committee a PowerPoint, titled "HJR 1 PowerPoint Presentation 4.26.2021" [included in the committee packet] and offered comments on each slide. He explained that the Institute of the North ("the Institute") is a nonpartisan think tank established by former Alaska Governor Walter Hickel and was formed to ensure that shared resources are used for maximum public benefit. He stated that the mission of the Institute was reflective of language in the Alaska State Constitution, Article 8. He explained that the Institute has taken an interest in the proposed joint resolution due to its [potential] impact on the

Alaska Permanent Fund. He encouraged protection of the permanent fund to avoid raising taxes, reductions to services, and loss of the dividend.

MR. LAING emphasized two main points [of CSSSHJR 1(W&M)] and lauded the proposed joint resolution as good strategy and good public policy. He added that the permanent fund has existed as a cornerstone of the state's financial future. He said that the concept of POMV had existed and been studied for decades but not implemented. He stated that the Principles and Interests Project, between 1997 and 1998, during which over 100 public meetings of had been held, the 2004 Conference of Alaskans, and dozens of endorsements had resulted in the recommendation of the POMV approach. He added that some version of the proposed joint resolution had been introduced to the Alaska State Legislature 37 times since the inception of the permanent fund.

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MR. LAING stated that the budget imbalance is the largest issue facing Alaska. He added that spending had been cut by 40 percent over the last 7-8 years and \$17 billion had been spent from savings. He stated that Alaska fiscal policy is uniquely complex and has presented the legislature with challenges in closing the fiscal gap. He suggested that, if it remained acceptable to use savings, then the practice would continue. He suggested that the state had become an endowment model with 65 to 75 percent of funding from the permanent fund when, previously, 90 percent of funding had been from oil revenues.

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MR. LAING said that the permanent fund had conducted an analysis projecting market performance that concluded there existed only a 50 percent chance that funds would remain available under the current model, which includes inflation-proofing.

MR. LAING asked the committee to consider the financial prudence of continued spending from a decreasing fund. He noted that for every \$1 billion drawn from the fund, the fund will be reduced by \$50 million each year in the future. He suggested that, had the \$17 billion drawn from the fund remained [invested], then the fund would have been producing \$850 million. He suggested that his analysis was an oversimplification of the complex problem that remains.

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MR. LAING suggested that access to the fund and its subaccount are "not ours to spend" and they had been created to convert nonrenewable resources into renewable wealth. He stated that the findings of the Principles and Interests Project in 1997 and 1998 were that Alaskans expect the permanent fund to be permanent - an inheritance to be passed to future generations. He stated that, since the inception of the permanent fund, \$150 billion in oil revenue had been generated and only 13.5 percent of that had been saved for the future.

MR. LAING postulated that the fiscal gap shall be closed, and it would be a matter of when and how it should be closed. He suggested that CSSSHJR 1(W&M) would provide a strategy and policy to close the gap by providing a deadline. He said that, should the proposed joint resolution pass [the legislature] and pass on the 2022 or 2023 ballot, a deadline to disallow unstructured spending would be newly imposed. He suggested that, if a constitutional amendment did not appear on the ballot, then the next opportunity would not occur until 2025. He asked the committee to consider the likelihood of it then becoming necessary to spend down the permanent fund. He concluded the presentation by reminding the committee that the passage of constitutional amendments requires a high degree of consensus.

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CHAIR CLAMAN invited testimony from the APFC.

[1:25:06 PM](#)

ANGELA RODELL, Chief Executive Officer, Alaska Permanent Fund Corporation, stated that the APFC Board of Trustees has been on record for over 20 years supporting a constitutional amendment to enact a 5 percent POMV draw spending limit and eliminating the distinction between the earnings reserve account and the principal of the fund. She said that a POMV structure would limit the amount allowed to be drawn from the fund and would be based on an average annual market value over five years. She suggested that the POMV structure would reduce volatility and increase the stability of funds available. She added that the proposed resolution would protect the fund's value through inflation-proofing and would provide a payout method compatible with the investment policy and asset allocation strategy of the fund. She said that in 2000, 2003, and 2004, the APFC Board adopted resolutions in support of a constitutional POMV. She

added that, in 2018, the board endorsed the creation of a legal framework to ensure the long-term success and sustainability of the fund, and in 2020, they re-endorsed all of these to demonstrate its continued support in establishing a single fund and the POMV draw.

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REPRESENTATIVE EASTMAN asked whether the APFC Board had unanimous support of the resolutions mentioned by Ms. Rodell.

MS. RODELL answered that the position of support was unanimous.

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REPRESENTATIVE VANCE stated that she had been made aware of concerns that 5 percent POMV would be too high for long-term sustainability and future growth of the fund and asked what amount Ms. Rodell would recommend.

MS. RODELL stated that the long-term return objective of the fund, established by the board, is 5 percent plus consumer price index (CPI) [increases] to inflation-proof the fund. She added that the 5 percent POMV based on a 5-year average would result in an amount less than the nominal amount that would be calculated on a year-by-year basis. For example, the current draw amount is closer to 4.3 or 4.4 percent. She added that, during years of flat growth or loss of growth, the percentage could increase in which the effective rate would appear to be 5.1 or 5.2 [POMV] but noted that, over a number of years, stability would be apparent

REPRESENTATIVE VANCE noted that there had been a large influx of federal funds [under the COVID-19 pandemic] and expressed her concern that there might exist hyper-inflation [as a result]. She asked whether the corporation had considered any impact of such hyper-inflation on investments.

MS. RODELL indicated that, should hyper-inflation occur, different asset classes would be affected. She stated that hyper-inflation in the bond market would suppress growth of that asset class. She added that other asset classes may experience rapid growth and thus the fund maintains a diversity of asset classes.

[1:31:41 PM](#)

REPRESENTATIVE EASTMAN recalled that the APFC Board had endorsed a 5 percent POMV plus CPI and that the proposed resolution did not contain that [formula] and asked Ms. Rodell to identify the differences.

MS. RODELL answered that the long-term investment return objective was 5 percent real gains plus CPI. She stated that CSSSHJR 1(W&M) would pertain to a 5 percent draw and would not include inflation due to the fact that inflation would be captured in the market value.

REPRESENTATIVE EASTMAN asked what view the APFC trustees hold on allowing the legislature to address years of high inflation separate from the POMV model.

MS. RODELL answered that the POMV model would take into account averages and create stability whether it included increases or decreases, and the trustees hold the view of managing the fund in perpetuity rather than for one budget cycle.

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CHAIR CLAMAN stated that with a draw consisting of 5 percent POMV and an investment strategy consisting of 5 percent POMV plus inflation, the size of the fund, if managed correctly, would adjust for inflation and would always be slightly behind the investment objectives.

MS. RODELL stated that, in theory, it would be desirable for the fund to grow in advance of the draws [by including inflation-proofing in its investment strategy].

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REPRESENTATIVE VANCE asked the sponsor to explain the 25 percent royalty deposit rather than 50 percent, which would align with statute.

REPRESENTATIVE KREISS-TOMKINS asked for clarification as to which statute referenced 50 percent royalties.

REPRESENTATIVE VANCE replied that her understanding was that the state could deposit up to 50 percent of Department of Natural Resources (DNR) royalties [into the fund].

REPRESENTATIVE KREISS-TOMKINS stated that he was unfamiliar with the statute referred to by Representative Vance, but that the

resolution would compel the legislature to make difficult but responsible decisions for the long term. He deferred to the will of the committee to discuss increases to royalty deposits or additional resource royalties to be included. He suggested that additional royalties invested in the fund could result in short-term shortages but opined that in the long term would be advantageous.

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REPRESENTATIVE VANCE expressed her support of increasing the royalty deposits above 25 percent so that nonrenewable resources could be invested for growth. She asked Mr. Laing to offer the Institute of North's viewpoint of an increase to the percentage of royalties deposited into the fund.

MR. LAING stated that the Institute does not maintain a formal position [on the question of increased royalties deposited into the fund] but noted there had been informal discussions on the matter. He stated that the predisposition of the Institution is one of intergenerational equality and postulated that the idea of saving more nonrenewable revenue into the fund would likely be supported by the Institute.

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REPRESENTATIVE KURKA referred to page 1, line 8 which would remove the words "only" and "those" in reference to the legislature being privileged to decide which income was allowed and asked for the sponsor's thought process that resulted in the elimination of those words.

REPRESENTATIVE KREISS-TOMKINS deferred the question to Legislative Legal and Research Services or Legislative Finance Division and offered his understanding that the change was to create conformity and not a substantive change.

CHAIR CLAMAN stated that Legislative Legal and Research Services was responsible for drafting the proposed legislation and invited their testimony to answer Representative Kurka's question.

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EMILY NAUMAN, Deputy Director, Legislative Legal and Research Services, Legislative Affairs Agency, answered that the reason the language had been removed was due to a change from an

earnings draw to that of a POMV model, the income sources would no longer be [considered as] part of the draw, and the draw could consist of funds from the ERA or corpus and not from income.

REPRESENTATIVE KURKA asked for clarification between sources of revenue compared to revenue going into the fund and how it is invested. He asked whether the language change would result in weaker or more limiting to what is eligible for permanent fund investments.

CHAIR CLAMAN offered a hypothetical example in which the legislature could instruct the fund to invest in stocks and bonds but not invest in a savings account, would the language permit the legislature to [instruct] the fund to invest in additional [asset classes] and asked Representative Kurka if this was an accurate restatement of his question.

REPRESENTATIVE KURKA asked whether the removal of the word "only" would weaken the language or if it was a change only in the style of language.

MS. NAUMAN stated that she would not interpret the language differently should those two words be removed. She referred to the word "shall" on page 1, line 8 as sufficient to be designated by law and that the change was one of style.

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REPRESENTATIVE EASTMAN referred to page 1, line 8 and stated that there existed a prohibition against using the principal for things not established in statute. He suggested that the language is more restrictive to the constitutional language.

[1:46:10 PM](#)

CHAIR CLAMAN opened public testimony on HJR 1.

[1:46:37 PM](#)

CHARLES MCKEE testified on subjects outside the scope of the hearing on HJR 1.

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CLIFF GROH testified in support of HJR 1. He shared with the committee that he was a lifelong Alaskan and had been in public

service for more than four decades working in public fiscal policy. He suggested that the passage of the resolution would provide only a partial solution and encouraged the passage of legislation for additional streams of revenue. He offered that the reason that a resolution of this type had not passed previously was due to inertia and multiple veto points established [in the legislative process]. He stated that spending from the ERA existed to serve short-term interests.

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CHAIR CLAMAN, after ascertaining there was no one else who wished to testify, closed public testimony on HJR 1.

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REPRESENTATIVE EASTMAN asked Ms. Nauman if there existed a scenario in which the proposed joint resolution was passed by the legislature and not passed by the voters, or in which a tie vote result occurred, whether the constitutional amendment could be reintroduced on a [future] ballot.

REPRESENTATIVE CLAMAN encouraged Ms. Nauman to answer the question confined to the context of only if the measure did not pass on the ballot and not to speculate on outcomes in the result of any tie [votes].

MS. NAUMAN speculated that, should CSSSHJR 1(W&M) fail on the ballot, it would be necessary for another resolution to pass the legislature for it to appear on a future ballot.

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REPRESENTATIVE CLAMAN asked, should CSSSHJR 1(W&M) fail to pass the legislature, whether it would be possible to propose legislation worded identically or there would need to be a change to the wording.

MS. NAUMAN stated her view that an identically worded resolution could be proposed.

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CHAIR CLAMAN announced that CSSSHJR 1(W&M) was held over.

[1:54:55 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 1:54 p.m.