

ALASKA STATE LEGISLATURE
HOUSE SPECIAL COMMITTEE ON WAYS AND MEANS

September 1, 2021

1:01 p.m.

MEMBERS PRESENT

Representative Ivy Spohnholz, Chair
Representative Andy Josephson
Representative Calvin Schrage
Representative Andi Story
Representative Mike Prax
Representative David Eastman

MEMBERS ABSENT

Representative Adam Wool

COMMITTEE CALENDAR

HOUSE BILL NO. 3002

"An Act relating to the earnings of the Alaska permanent fund and the earnings reserve account; relating to the mental health trust fund; and providing for an effective date."

- HEARD & HELD

OVERVIEW(S): PERMANENT FUND FORMULA CHANGES AND PERCENT OF MARKET VALUE

- HEARD

PREVIOUS COMMITTEE ACTION

BILL: HB3002

SHORT TITLE: PERMANENT FUND: INCOME

SPONSOR(S): REPRESENTATIVE(S) EASTMAN

08/20/21	(H)	READ THE FIRST TIME - REFERRALS
08/20/21	(H)	W&M, STA, FIN
09/01/21	(H)	W&M AT 1:00 PM DAVIS 106

WITNESS REGISTER

REPRESENTATIVE DAVID EASTMAN
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Introduced HB 3002, as the prime sponsor, and provided a PowerPoint presentation, titled "HB 3002 Repeal of SB 26 Permanent Fund: Income."

ALEXEI PAINTER, Director
Legislative Finance Division
Juneau, Alaska

POSITION STATEMENT: Provided a PowerPoint presentation, titled "PFD and POMV Legislation."

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

POSITION STATEMENT: Provided a PowerPoint presentation, titled "Alaska Permanent Fund," dated 9/1/21.

ACTION NARRATIVE

[1:01:34 PM](#)

CHAIR IVY SPOHNHOLZ called the House Special Committee on Ways and Means meeting to order at 1:01 p.m. Representatives Josephson, Prax, Eastman, and Spohnholz were present at the call to order. Representatives Story and Schrage (via teleconference) arrived as the meeting was in progress. Also present was Representative Ortiz (via teleconference).

HB3002-PERMANENT FUND: INCOME

[1:02:33 PM](#)

CHAIR SPOHNHOLZ announced that the first order of business would be HOUSE BILL NO. 3002, "An Act relating to the earnings of the Alaska permanent fund and the earnings reserve account; relating to the mental health trust fund; and providing for an effective date."

[1:03:55 PM](#)

REPRESENTATIVE DAVID EASTMAN, Alaska State Legislature, prime sponsor, introduced HB 3002. He stated that the purpose of the legislation was to repeal Senate Bill 26.

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REPRESENTATIVE EASTMAN directed attention to a PowerPoint presentation, titled "HB 3002 Repeal of SB 26 Permanent Fund:

Income" [hard copy included in the committee packet]. He began on slide 2, which highlighted several metrics for FY 2019: statutory net income (SNI) at 43.82 billion; percent of market value (POMV) at \$2.72 billion; and "appropriated from ERA" at 42.72 billion. The graph on the right displayed "total spending (excluding dividends)" from FY 19 to FY 22.

[1:07:21 PM](#)

REPRESENTATIVE EASTMAN continued to slide 3, which highlighted the same three metrics for FY 20: SNI at \$3.77 billion; POMV at \$2.93 billion; and "Appropriated from ERA" at \$6.93 billion, which included an ad hoc appropriation of \$4 billion.

CHAIR SPOHNHOLZ asked whether Representative Eastman was of the position that the legislature should not be able to transfer funds from the earnings reserve account (ERA) to the corpus of the Alaska Permanent Fund ("the fund") for the purpose of inflation proofing.

REPRESENTATIVE EASTMAN shared his understanding that that, per statute, inflation proofing took place automatically.

CHAIR SPOHNHOLZ sought to confirm that Representative Eastman believed that the legislature should not be able to inflation proof the corpus.

REPRESENTATIVE EASTMAN remarked, "If we were going to be doing that, then we didn't need SB 26, because SB 26 came in and said, 'we shouldn't be doing that.'" He maintained his position that Senate Bill 26 should be repealed because the legislature was violating the provisions within two years of its enactment.

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REPRESENTATIVE JOSEPHSON shared his understanding that Senate Bill 26 limited expenditures from the total of the fund at 5.25 percent. He clarified that, contrary to Representative Eastman's understanding, Senate Bill did not prohibit the legislature from inflation proofing. He asked the bill sponsor to cite a statute that suggested otherwise.

REPRESENTATIVE EASTMAN jumped forward to slide 6, which read as follows [original punctuation provided]:

AS 37.13.140 (2018 - SB26)
Amount Available for Appropriation

(b) The corporation shall determine the amount available for appropriation each year. The amount available for appropriation is five percent of the average market value of the fund for the first five of the preceding six fiscal years, including the fiscal year just ended, computed annually for each fiscal year in accordance with generally accepted accounting principles.

AS 37.13.145 (1992)
Amount to be Transferred

(b) At the end of each fiscal year, the corporation shall transfer from the earnings reserve account to the dividend fund established under AS 43.23.045, 50 percent of the income available for distribution under AS 37.13.140.

REPRESENTATIVE EASTMAN interpreted AS 37.13.140(b) to mean that more than 5 percent of the average market value of the fund could not be appropriated from the ERA. He added, "SB 26 was only speaking to being able to withdraw money from the earnings reserve account."

REPRESENTATIVE JOSEPHSON disagreed, noting that he did not interpret the statute in that way. Nonetheless, he considered a scenario in which Representative Eastman was correct in that the legislature could not withdraw from the corpus. He proceeded to point out that the governor approved the transfer of \$4 billion in FY 20. He asked what the remedy would be.

REPRESENTATIVE EASTMAN recommended repealing Senate Bill 26 and replacing it with something better because the legislature was not following the statute as written.

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REPRESENTATIVE PRAX believed that the point Representative Eastman was trying to make was that the law was not being followed. He opined that it wasn't an argument of whether the \$4 billion-dollar transfer was a good idea.

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REPRESENTATIVE EASTMAN resumed the presentation on slide 4, highlighting the graph on the right that displayed "total

spending (excluding dividends)" from FY 19 to FY 22. He pointed out that "total spending (excluding dividends)" increased from FY 19 to FY 20 despite the passage of Senate Bill 26 and its limit on appropriations. He turned to slide 4, which provided the same three metrics for FY 21: SNI at \$5.02 billion; POMV at \$3.09 billion; and "Appropriated from the ERA" at \$3.09 billion.

CHAIR SPOHNHOLZ sought to confirm that "total spending (excluding dividends)" included federal receipts and designated general funds (DGF).

REPRESENTATIVE EASTMAN confirmed that all appropriations were included in that metric except for the permanent fund dividend (PFD).

CHAIR SPOHNHOLZ replied, "That's an interesting definition" [of total spending].

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REPRESENTATIVE EASTMAN turned to slide 5, which highlighted the same three metrics in FY 22: SNI at \$5.02 billion; POMV at \$3.07 billion; and "Appropriated from the ERA" at \$7.07 billion, which included an ad hoc appropriation of \$4 billion. He emphasized, per the graph on the right, that "total spending (excluding dividends)" had increased from FY 21 to FY 22.

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REPRESENTATIVE JOSEPHSON recalled that Representative Eastman had stated that the POMV failed to curtail spending. He asked whether the bill sponsor preferred that the legislature opt out of any federal COVID-19 spending.

REPRESENTATIVE EASTMAN said his argument was that the legislature's spending did follow statute. He urged the legislature to either change the law or follow it; however, his preference, he said, was to change the statute.

CHAIR SPOHNHOLZ asked whether Representative Eastman was suggesting that the legislature should have enough revenue to cover all the federal programs, such as road building, which is a 90/10 match, and Medicaid.

REPRESENTATIVE EASTMAN opined that the appropriations should be based on income received, as opposed to an arbitrary number. He explained that total spending was highlighted in the

presentation to suggest that increased spending was impacting the economy by setting a precedent.

CHAIR SPOHNHOLZ argued that it didn't make sense to include federal receipts in the consideration of funding from state sources. She likened it to comparing a banana to an artichoke, as the sponsor was using completely different numbers with different definitions for his rhetorical purposes.

REPRESENTATIVE EASTMAN responded that this method was intentional to highlight the impact of Senate Bill 26 on total spending.

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REPRESENTATIVE STORY said it would have been helpful if undesignated state spending had been included on the slides. She pointed out that although federal funding had increased, undesignated spending had not increased, which was an important point to highlight for the public.

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REPRESENTATIVE JOSEPHSON sought to confirm that Representative Eastman believed that the POMV was not controlled spending and that the legislature should spend more.

REPRESENTATIVE EASTMAN contended that the legislature should follow the law.

REPRESENTATIVE JOSEPHSON argued that Representative Eastman wanted to spend more.

REPRESENTATIVE EASTMAN acknowledged that he wanted to spend differently.

REPRESENTATIVE JOSEPHSON asked the bill sponsor to confirm that his amendments on the floor called for spending billions of dollars more.

REPRESENTATIVE EASTMAN stated, "my amendments yesterday called for spending billions of dollars to follow the law and to send a dividend to people."

CHAIR SPOHNHOLZ pointed out that HB 3002 would create a deficit of roughly \$2 billion to \$3 billion in each of the next 10 years

moving forward. She asked whether the bill sponsor had a revenue proposal to offset the spending.

REPRESENTATIVE EASTMAN contended that HB 3002 did not call for a specific appropriation amount, it just called for following the statute. He claimed that SB 26 was passed in a "less than ideal manner," as certain portions were taken out leaving less than a full package.

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REPRESENTATIVE PRAX expressed confusion about the presentation and sought to clarify whether HB 3002 was trying to address the amount available for appropriation within the earnings of the permanent fund. He added, "that will change that source of funding for the general fund (GF), but it doesn't really control what's available from the feds or any other source."

REPRESENTATIVE EASTMAN nodded in the affirmative. He resumed the presentation on slide 6, noting that AS 37.13.145(b), which provided that the Alaska Permanent Fund Corporation (APFC) shall make a transfer from the earnings reserve account to the dividend fund at the end of each fiscal year, was not being followed.

[1:23:27 PM](#)

REPRESENTATIVE EASTMAN continued to slide 7, which read as follows [original punctuation provided]:

HB69 Enrolled
Section 55. ALASKA PERMANENT FUND

(f) The sum of \$4,000,000,000 is appropriated from the earnings reserve account (AS 37.13.145) to the principal of the Alaska permanent fund.

REPRESENTATIVE EASTMAN indicated that the legislature chose to appropriate \$4 billion from the ERA despite the confirmation by APFC that the amount available for appropriation was less than that amount.

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REPRESENTATIVE JOSEPHSON sought to clarify why Representative Eastman hadn't sued the state to clarify the law like Senator

Wielechowski in Wielechowski v. Alaska, 406 P.3d 1141 (Alaska 2017).

REPRESENTATIVE EASTMAN said he would prefer that the legislature do some housekeeping to clean up its statutes.

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REPRESENTATIVE EASTMAN resumed the presentation on slide 8, which reviewed the amount of the dividend since passage of Senate Bill 26. He indicated that while "total state spending (excluding dividends)" had steadily increased since FY 19, the dividend amount had decreased.

CHAIR SPOHNHOLZ noted that given the power cost equalization (PCE) lawsuit, Alaska Federation of Natives, et al. v. Governor Michael Dunleavy, et al., the Legislative Finance Division (LFD) advised that the statutory budget reserve (SBR) was not a sweepable account and could therefore be accessible for funding the PFD. She acknowledged that there were competing opinions about the dividend; however, she wanted to emphasize that the legislature was not supportive of a dividend totaling \$619, as suggested on slide 8.

[1:26:20 PM](#)

REPRESENTATIVE JOSEPHSON expressed his dislike of the "total spending (excluding dividends)" metric, as it was not transparent. He opined that although the slide may be factually accurate, it was intended to "excite" the public. He addressed Representative Eastman's reference to Wielechowski v. Alaska and stated, "you're illustrating that we didn't fully appropriate a statute, but we're in a world where we're told we don't have to." He said the bill sponsor was essentially asking him to comply with something that he didn't need to comply with. Ultimately, he said he didn't understand the bill sponsor's position.

REPRESENTATIVE EASTMAN shared his belief that compliance could be achieved by two options: follow the law as written or change it.

CHAIR SPOHNHOLZ noted that there were other pieces of legislation that had been introduced during the current legislative session that could also help to address that issue.

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REPRESENTATIVE EASTMAN resumed his presentation on slide 8, explaining that the dividend amounts shown for FY 22 illustrated the opposing views on the SBR.

CHAIR SPOHNHOLZ reminded the public that in the "total spending (excluding dividends)" metric, Representative Eastman had included federal pandemic relief, Medicaid, capital funding from the federal government, designated funds, program receipts, as well as fees paid to the state.

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REPRESENTATIVE EASTMAN turned to slide 9, which read as follows [original punctuation provided]:

AS 37.13.145 (2018 - SB26)
Amount Available for Appropriation to General Fund

(3) The legislature may not appropriate from the earnings reserve account to the general fund a total amount that exceeds the amount available for appropriation under AS 37.13.140(b) in a fiscal year.

REPRESENTATIVE EASTMAN remarked, "when you read this statute from SB 26 in light of that [PCE] decision, you find that this limit is not actually having an effect on money going to the dividend fund. So, the appropriation limit would relate to money going to the GF, but if it went directly to the dividend fund, per the automatic transfer, for example, in statute, it would be wholly escaping that limit and I don't think that was the intent of the legislature."

CHAIR SPOHNHOLZ said she did not follow Representative Eastman's logic.

REPRESENTATIVE EASTMAN suggested that the next slide would clarify that. He turned to slide 10, which read as follows [original punctuation provided]:

AFN v. Dunleavy (August 11, 2021)
Separate Funds Not Part of The General Fund

"Because the term "general fund" was not a term of constitutional significance when the Alaska Constitution was established, the Legislature had authority to establish, by statute, funds outside and

separate from the general fund. This authority was circumscribed only by the dedicated funds clause. And the Legislature did establish "separate funds."

"In 1984, the Legislature established the Power Cost Equalization Fund as a "separate fund" of the authority."

REPRESENTATIVE EASTMAN continued to slide 11, which read as follows [original punctuation provided]:

AS 43.23.045
Dividend Fund

(a) The dividend fund is established as a separate fund in the state treasury. The dividend fund shall be administered by the commissioner and shall be invested by the commissioner in the same manner as provided in AS 37.10.070.

REPRESENTATIVE EASTMAN suggested that the dividend fund was established as a separate fund in the same way that the PCE fund was separate from the GF. He reasoned that the limit in Senate Bill 26 only applied to funds being transferred to the GF, adding, "It was not that is being specifically put towards funds being transferred to the dividend fund." He believed that if the intent was to limit funds going to the dividend fund, the current construction of Senate Bill 26 did not establish that goal.

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REPRESENTATIVE PRAX said he wasn't following Representative Eastman's argument. He shared his understanding that money could be transferred from the ERA to the permanent fund or the dividend fund, as long as the transfer didn't go the GF.

REPRESENTATIVE EASTMAN responded, "those transfers that you're talking about to something other than the general fund, under the statute as written, still would have to fall under that amount calculated as available for appropriation from the Earnings Reserve Account... We're not necessarily following that to a T though. So, yes, there is a limit in statute currently on funds that can go to things other than the general fund ... in AS 37.13.145." He asked if that answered Representative Prax's question.

REPRESENTATIVE PRAX answered no.

[1:34:41 PM](#)

REPRESENTATIVE JOSEPHSON believed that Representative Eastman was reading the statutes in a "technical way" and suggesting that the legislature could appropriate beyond 5 percent as long as it's not to the GF. He asked what was in the dividend fund right now.

REPRESENTATIVE EASTMAN responded, "Not much."

REPRESENTATIVE JOSEPHSON sought to confirm that Representative Eastman's view was that the amount in the dividend fund could not be swept because it's not in the GF.

REPRESENTATIVE EASTMAN said, "if we we're going to follow the interpretation of AFN, I think that's a compelling argument."

CHAIR SPOHNHOLZ pointed out that it wasn't likely that the legislature would not want to appropriate funds that had been appropriated to the dividend fund. She shared her belief that this was a hypothetical scenario that would never occur in real life.

REPRESENTATIVE EASTMAN agreed.

CHAIR SPOHNHOLZ suggested that the bill sponsor was trying to fix a nonexistent problem.

REPRESENTATIVE EASTMAN remarked, "I'm not considering that particular scenario at that the moment."

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REPRESENTATIVE EASTMAN concluded his presentation by pointing out that there was a growing gap between the SNI calculation and the POMV that was established in Senate Bill 26. He believed that those appropriations were being saved for a future purpose at the expense of the current economy.

REPRESENTATIVE JOSEPHSON pointed out that Representative Eastman had characterized the 5 percent POMV as "arbitrary." He asked whether the bill sponsor was aware of all the expert testimony that had established and supported that number.

REPRESENTATIVE EASTMAN said he was aware of the expert testimony.

REPRESENTATIVE JOSEPHSON asked whether Representative Eastman was aware that 5 percent resembles the typical POMV number seen nationwide.

REPRESENTATIVE EASTMAN explained that he had characterized it as arbitrary because the average "income" [SNI] received by the state over the last 5 years is in excess of \$5 billion.

REPRESENTATIVE JOSEPHSON asked why a 50/50 split of the POMV is not arbitrary.

REPRESENTATIVE EASTMAN believed that a 50/50 approach would account for the state's income.

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REPRESENTATIVE SCHRAGE took exception to the 5 percent POMV rate being characterized as arbitrary. He explained that even if the POMV were tied to income, it would still be a five-year rolling average; consequently, he believed that such a scenario could create issues if the market were to collapse, and the five-year average indicated that the state was supposed to pay out more than it actually had in the account. He said in some ways it could be an arbitrary decision to base the formula on income rather than on the amount in the account and the ability to pay. Furthermore, he pointed out that during the discussion, Representative Eastman had made reference to repealing the statute and fixing the statute. He said in reading HB 3002, the bill seemed to be repealing the statute. He opined that Senate Bill 26 essentially created a spending cap and asked why the bill sponsor wanted to repeal it instead of amending it.

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REPRESENTATIVE EASTMAN explained that he was not an advocate of Senate Bill 26 and opined that it had been shown not to work. He believed that the law should be written in a way that the legislature could follow it carefully.

CHAIR SPOHNHOLZ thanked Representative Eastman and clarified for the public that over the last seven years, the legislature had reduced the state's contribution to spending by about \$500 million while inflation had simultaneously eroded those dollars by about 5 percent. She stressed that there had been cuts made

to the budget, pointing out that most of the budget growth had come from federal funds.

OVERVIEW(S) : Permanent Fund Formula Changes and Percent of Market Value

[1:44:58 PM](#)

CHAIR SPOHNHOLZ announced that the final order of business would be the Permanent Fund Formula Changes and Percent of Market Value overview.

CHAIR SPOHNHOLZ explained that this would be an overview of all the legislation that was currently before the legislature to help people understand what the bills' financial impact(s) would be to the state.

[1:46:17 PM](#)

ALEXEI PAINTER, Director, Legislative Finance Division, introduced a PowerPoint presentation, titled "PFD and POMV Legislation" [hard copy included in the committee packet]. He began on slide 2 with a disclaimer that read, "Scenarios and adjustments in this presentation reflect individual pieces of legislation. Sponsors may intend these bills to be part of a larger package of changes." He continued to slide 3, which read as follows [original punctuation provided]:

Review of Modeling Baselines

- Legislative Finance's fiscal model is designed to show policy makers the longer-term impact of fiscal policy decisions.
- The baseline assumptions are essentially that current budget levels are maintained, adjusted for inflation. Policy changes are then applied against that baseline.
- Our default is to assume that statutory formulas will be followed.

[1:47:43 PM](#)

MR. PAINTER proceeded to slide 4, which read as follows [original punctuation provided]:

Review of Modeling Baselines (cont.)

Revenue Assumptions

- LFD's baseline revenue assumptions are the Department of Revenue's Spring Revenue Forecast.
 - This assumes \$61 oil in FY22, growing with inflation in future years.
 - DNR oil production forecast projects that Alaska North Slope production will increase from 459.7 thousand barrels per day in FY22 to 565.5 thousand barrels per day in FY30.
- For the Permanent Fund, we assume actual FY21 returns and Callan's return assumption, which is 5.86% for FY22 and 6.20% for FY23 and beyond.

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MR. PAINTER advanced to slide 5, which read as follows [original punctuation provided]:

Review of Modeling Baselines (cont.)

Spending Assumptions

- For agency operations, these scenarios assume 50% of vetoes are restored to the FY22 enacted budget. Budgets grow with inflation starting in FY23 (2.0% per Callan).
- For statewide items, the baseline assumes that all items are funded to their statutory levels beyond FY22.
 - This includes School Debt Reimbursement, the REAA Fund, Community Assistance, oil and gas tax credits. We assume oil and gas tax credits are unfunded in FY22 but statutorily funded beginning FY23 until the credit balance is eliminated.
 - For retirement funding, we are using draft numbers presented by DOR to the Fiscal Plan Working Group in July.
 - We also include a baseline Fund Transfers amount that represents the ongoing cost of DEC's Spill Prevention and Response program.

- For the capital budget, we assume the enacted FY22 capital budget, growing with inflation.
- For supplementals we assume \$50.0 million per year. This is based on the average amount of supplemental appropriations minus lapsing funds each year.

[1:49:38 PM](#)

MR. PAINTER reviewed the list of PFD- and POMV-related legislation on slide 6, which read as follows [original punctuation provided]:

PFD and POMV Bills In the 32nd Legislature

Constitutional Amendments

- HJR 1 (Rep. Kreiss-Tomkins)
- HJR 7 (Governor Dunleavy)
- HJR 10 (Rep. Tuck)
- SJR 1 (Sen. Wielechoski) (sic)
- SJR 18 (Sen. von Imhof)

Statutory Changes

- HB 37 (Rep. Wool)
- HB 73 (Governor Dunleavy)
- HB 202 (Rep. Merrick)
- HB 3002 (Rep. Eastman)
- HB 3008 (House Ways and Means)

[1:50:13 PM](#)

MR. PAINTER proceeded to review each bill beginning with HJR 1 on slide 7, which read as follows [original punctuation provided]:

HJR 1 (Rep. Kreiss-Tomkins)

- Constitutional amendment combining Permanent Fund principal and earnings reserve into a single account
- Establishes limit of draws from Permanent Fund of 5% POMV
- Does not deal with PFD

[1:50:51 PM](#)

MR. PAINTER summarized the governor's bills on slide 8, which read as follows [original punctuation provided]:

HJR 7/HB 73 (Governor)

- HJR 7 is a constitutional amendment combining Permanent Fund principal and earnings reserve into a single account
- HJR7 establishes limit of draws from Permanent Fund of 5% POMV
- As originally drafted, required that a PFD be paid according to a statute that was approved by the voters (as provided in HB 73)
- Governor revised his proposal, which was introduced as a CS to SJR 6 (the Senate companion). This version provides:
 - Constitutional single Permanent Fund account
 - Limits draws to 5% POMV
 - Sets PFD as 50% of the POMV draw
 - Transfers the PCE fund to the Permanent Fund and adds PCE program as constitutional requirement

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REPRESENTATIVE PRAX sought to clarify whether HJR 7 included what Representative Kreiss-Tomkins was attempting to accomplish with HJR 1 with several additional provisions.

MR. PAINTER answered yes.

[1:52:55 PM](#)

MR. PAINTER turned to slide 9, which modeled the governor's constitutional amendment (CSSJR 6). He pointed out that meeting the dividends contemplated by the governor's plan would require ERA draws above the POMV in the first two years, after which would not be allowed under the constitutional amendment. He characterized it as a "broken plan." He added that under this plan, the size of the deficits was noteworthy with a baseline deficit of over \$1 billion in FY 23 and FY 24. He further noted that most plans contemplated by the fiscal policy working group aimed to solve the budget deficit somewhere between FY 25 and FY 27 by proposing a range of \$700 million to \$800 million in

policy changes against the baseline, whether that be spending reductions or revenue increases.

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REPRESENTATIVE JOSEPHSON shared his belief that more recently, the governor would make the argument that new revenue would not be needed to replace the deficits (represented in red). He asked Mr. Painter to explain why the governor would make that argument.

MR. PAINTER conveyed that the governor's 10-year spending plan included budget reductions over the next several years; therefore, in addition to the budget not increasing with inflation, there would be reductions of \$100 million each year, as well as 50 percent funding of the school bond debt reimbursement program, which would reduce spending below the baseline. The governor also referenced an additional \$300 million of either spending or revenue; however, the source it was not specified.

REPRESENTATIVE JOSEPHSON pointed out that the fiscal policy working group's conclusion was different than the governor's regarding the need for new revenue. He asked whether that was a fair interpretation.

MR. PAINTER declined to speak for the members of the working group. He acknowledged that the group was a proponent of more revenue and less budget reductions compared to the governor.

CHAIR SPOHNHOLZ stated that the working group's recommendations included \$25 million to \$200 million in cuts implemented over several years, in addition to \$500 million to \$775 million in new revenue.

[1:58:19 PM](#)

REPRESENTATIVE PRAX said that's roughly correct.

CHAIR SPOHNHOLZ highlighted the controversy regarding the term, "bridge funding," which was used by the governor. She shared her understanding that bridge funding was essentially an overdraw of the Alaska Permanent Fund that would require 200 percent of the sustainable draw. Further, it would be drawing from a fund that was projected to earn 6.2 percent in the constitutional budget reserve (CBR) over the long term. She noted that such a move would require an increase in taxes or

further cuts to the budget. She expressed her interest in seeing specific revenue proposals from the administration to make progress on the fiscal plan.

[2:00:06 PM](#)

REPRESENTATIVE STORY sought to confirm that under the governor's plan, the PCE fund would be transferred to the permanent fund whereas under the fiscal policy working group's plan, it would remain. Additionally, she asked whether the PCE fund included energy assistance in addition to community assistance.

MR. PAINTER explained that if there were additional earnings available in the PCE fund beyond what was needed for the PCE program, the extra money would go to community assistance and renewable energy projects. He added that the governor's proposal, as currently drafted, did not provide for community assistance to be funded as a constitutional mandate; accordingly, the entire balance of the fund would be transferred to the principal of the Alaska Permanent Fund. He added that under the governor's plan, UGF funds would cover the cost of community assistance.

[2:02:03 PM](#)

REPRESENTATIVE STORY asked how the renewable energy projects would be funded under the governor's plan.

MR. PAINTER had not heard any comments from the administration on the continued funding of those projects.

[2:02:20 PM](#)

MR. PAINTER resumed the presentation on slide 10, which read as follows [original punctuation provided]:

HJR 10 (Rep. Tuck)

- Constitutional amendment retaining two- account structure
- Draws limited to 4% of market value of the fund (no averaging) but may not exceed net income from the fund in the previous fiscal year
- Splits draw 50/50 between PFD and general fund

MR. PAINTER continued to slide 11, which provided a 10-year model of HJR 10. He noted that the deficit figures were slightly larger than the governor's due to lower draws from the fund.

CHAIR SPOHNHOLZ surmised that, unless combined with another proposal, this plan would not meet the stress test that was discussed in the fiscal policy working group. She speculated that HJR 10 could potentially result in the loss of the dividend if earnings dropped significantly.

MR. PAINTER confirmed that Representative Spohnholz was correct.

[2:05:02 PM](#)

MR. PAINTER resumed the presentation on slide 12, which read as follows [original punctuation provided]:

SJR 1 (Sen. Wielechowski)

- Constitutional amendment combining Permanent Fund principal and earnings reserve into a single account
- Establishes limit of draws from Permanent Fund of 5% POMV
- Sets PFD as higher of: (1) current statutory formula; or (2) 50% of the POMV draw

[2:06:10 PM](#)

REPRESENTATIVE JOSEPHSON asked him to repeat his explanation of SJR 1.

MR. PAINTER explained that the PFD formula would be the higher than either 50 percent of SNI or 50 percent of the POMV draw. Under the scenario of a flat 6.2 percent earnings, the current statutory formula always paid more than 50 percent of the POMV draw; however, when volatility is added to the scenario, 50 percent of the POMV draw could be higher than the statutory formula, as SNI is more volatile than the POMV. He added that SJR 1 would essentially set a floor, so that 50 percent of the POMV would still go out as the dividend in the negative volatility scenarios.

[2:07:05 PM](#)

MR. PAINTER directed attention to slide 13, which provided a 10-year model of SJR 1. He explained that the larger deficits were due to the statutory dividend payments.

[2:07:46 PM](#)

REPRESENTATIVE JOSEPHSON inquired about the red bars in FY 22 and FY 23.

MR. PAINTER explained that the red bars represented the assumption that the deficit would be filled by an ERA draw. He noted that such a decision would be a policy call.

[2:08:17 PM](#)

MR. PAINTER advanced to slide 14, which read as follows [original punctuation provided]:

SJR 18 (Sen. von Imhof)

- Constitutional amendment splitting Permanent Fund into two accounts: Permanent Fund and Alaska Resource Ownership Revenue Account (ARORA)
- ARORA established with a transfer equal to the PFDs paid below the statutory level (about \$6.77 billion)
- Royalties currently directed to the Permanent Fund will be split equally between the Permanent Fund and ARORA
- 5% POMV from each fund. Permanent Fund POMV goes to the general fund, ARORA to the PFD fund

MR. PAINTER turned to slide 15, which provided a 10-year model of SJR 18. He noted that aside from a slight deficit in FY 22, this proposal would result surpluses beginning at \$100 million in FY 23 that would grow to over \$1 billion by FY 28.

[2:10:14 PM](#)

REPRESENTATIVE PRAX sought to confirm that under SJR 18, the dividend would be paid out of a one-time contribution to the ARORA fund of \$6.77 billion.

MR. PAINTER answered yes, that would constitute the starting balance for the ARORA account, from which a POMV draw would pay the dividend.

REPRESENTATIVE PRAX asked whether it would be separate from the GF funding of the POMV.

CHAIR SPOHNHOLZ said, "Correct."

[2:11:31 PM](#)

REPRESENTATIVE JOSEPHSON sought to verify that the dividend portion would have a "life of its own" and grow over time as royalties came in. Further, he asked whether the dividends were small under SJR 18.

MR. PAINTER answered yes. He estimated that in FY 24, the dividend would be under \$500.

[2:12:17 PM](#)

MR. PAINTER resumed the presentation on slide 16, which read [original punctuation provided]:

HB 37 (Rep. Wool)

- Retains statutory 5% POMV
- Directs 10% of POMV and 30% of total royalties to the PFD
- Repeals additional statutory 25% of royalties to the Permanent Fund
- Repeals Amerada Hess account (funding source for Alaska Capital Income Fund)
- Establishes a flat income tax of 2.5% - Estimated to raise \$580 Million in FY23

[2:14:24 PM](#)

MR. PAINTER turned to the 10-year model of HB 37 on slide 17, highlighting the deficit on FY 22 followed by surpluses beginning in FY 24 due to the implementation of the income tax.

[2:14:53 PM](#)

MR. PAINTER advanced to slide 18, which read as follows [original punctuation provided]:

HB 202 (Rep. Merrick)

- Retains statutory 5% POMV
- Directs 30% of total royalties to the PFD

MR PAINTER continued to the 10-year model of HB 202 on slide 19, noting that surpluses would begin immediately in FY 22 growing to \$100 million going forward.

CHAIR SPOHNHOLZ noted that SJR 18, HB 37, and HB 2002 all balanced the budget and would produce a surplus based on LFD assumptions.

[2:16:25 PM](#)

REPRESENTATIVE EASTMAN sought to clarify how HB 202 would impact the 25 percent of royalties required to go to the permanent fund.

MR. PAINTER said it would not affect that statute; thus, 25 percent of royalties would continue going to the permanent fund.

[2:16:54 PM](#)

REPRESENTATIVE JOSEPHSON sought to confirm that under HB 37, 25 percent of royalties would still be required to go to the corpus while 90 percent of the remaining 75 percent would go to the PFD.

MR. PAINTER said that was his understanding.

[2:17:30 PM](#)

MR. PAINTER resumed the presentation on slide 21, which read as follows [original punctuation provided]:

HB 3002 (Rep. Eastman)

- Repeals statutory POMV draw
- Retains statutory PFD formula

MR. PAINTER continued to slide 21, which provided a 10-year model of HB 3002.

[2:18:10 PM](#)

REPRESENTATIVE PRAX asked whether the balance of earnings would be available for appropriation even though it was not illustrated on the model shown on slide 21.

MR. PAINTER assumed that the intent of the bill was not to draw to the GF, as HB 3002 repealed the current draw to the general fund and did not replace it with another draw. He said if that was not the bill sponsor's intent, LFD would happily remodel it with different assumptions.

[2:18:54 PM](#)

REPRESENTATIVE EASTMAN said the legislation did not intend to take a position on how much would be appropriated from the ERA in any given year. He indicated that the legislature should determine that in separate legislation.

MR. PAINTER responded that LFD would gladly remodel it showing the deficits being filled from the ERA.

CHAIR SPOHNHOLZ opined that it had been modeled in a manner that makes sense and remained consistent with the other modeling.

[2:19:44 PM](#)

REPRESENTATIVE JOSEPHSON observed that to filling the deficit created by HB 3002 would require \$3.1 billion.

MR. PAINTER said with or without Senate Bill 26, the ERA could be drawn from to fill the deficit.

[2:20:37 PM](#)

REPRESENTATIVE PRAX suggested illustrating that the ERA was available to draw from.

CHAIR SPOHNHOLZ noted that if that were to happen, the ERA would be drained to nothing within several years.

REPRESENTATIVE PRAX agreed.

[2:21:42 PM](#)

REPRESENTATIVE EASTMAN said another option would be for the legislature to appropriate prudently from that account.

CHAIR SPOHNHOLZ said, "That is true;" however, HB 3002 would require massive new revenue or massive cuts. Given that the state UGF budget was just over \$4 billion, she pointed out that it would essentially cut the budget by half to two-thirds.

[2:22:46 PM](#)

REPRESENTATIVE PRAX shared his understanding that a "deficit" would not accurately describe the scenario, as there would be money available to cover the gap in spending. He asked Mr. Painter to elaborate.

MR. PAINTER explained that LFD typically categorized any draws from a savings account that were not according to a statutory structure as "deficit spending." He added that whether it was from the CB, SBR, or ERA, a draw needed balance the budget would be defined as deficit spending. Alternatively, if there was a structure in place, such as the POMV or another formula, the draw would be considered "revenue" rather than deficit spending. He reiterated that in absence of a statutory plan, LFD would consider a draw to be deficit spending.

CHAIR SPOHNHOLZ, referring to slide 21, acknowledged that without appropriating from the ERA, the legislature would have a deficit of about \$2.9 billion in FY 23 under HB 3002. She pointed out that the delta between the dotted line (representing the budget) and the revenue would require either cuts, new revenue, or a combination of the two totaling \$2.5 to \$3 billion.

[2:25:19 PM](#)

REPRESENTATIVE EASTMAN asked whether LFD could provide modeling that accounted for "the wealth being generated by our permanent fund in such a way that better reflects a definition of deficit spending that would reflect the state on the whole coming out with less resources after deficit spending has taken place over a given year."

MR. PAINTER said LFD would consider the income that's available for appropriation by statute, which was currently the POMV draw, to be the amount that's revenue and counted towards identifying a deficit. He opined that whether the state's net position had

increased or decreased was a separate question. He further noted that adopting the POMV moved the state closer to syncing its actual cashflow to the statutory structure.

[2:29:11 PM](#)

MR. PAINTER resumed the presentation on slide 22, which read as follows [original punctuation provided]:

HB 3008 (House Ways and Means)

- Retains 5% POMV draw
- Directs 25% of POMV draw to the PFD

MR. PAINTER continued to slide 23, which provided a 10-year model of HB 3008. He highlighted the deficits in FY 22 through FY 24 followed by surpluses beginning in FY 25, noting that there would need to be a funding source or policy changes to avoid the unstructured draws in the first several years.

[2:30:04 PM](#)

REPRESENTATIVE JOSEPHSON sought to confirm that HB 3008 would balance the budget, pay a dividend, and require no new revenue.

MR. PAINTER answered yes, beyond the unstructured draws in FY 22 through FY 24.

CHAIR SPOHNHOLZ added that beginning in FY 25, the state would be net positive.

REPRESENTATIVE JOSEPHSON said, theoretically, if the people wanted a constitutionally protected dividend, the services they've enjoyed, and a dividend starting at \$1,300, HB 3008 would appear provide all those deliverables.

[2:32:31 PM](#)

CHAIR SPOHNHOLZ introduced Ms. Rodell, Alaska Permanent Fund Corporation (APFC).

[2:32:54 PM](#)

ANGELA RODELL, Chief Executive Officer, introduced a PowerPoint presentation, titled "Alaska Permanent Fund," [hard copy included in the committee packet]. She began on slide 2, which

illustrated the structure of the fund. She noted that if the legislature were to repeal the creation of the ERA, all the income being generated from the Alaska Permanent fund would flow to the GF. She emphasized that APFC ("the corporation") was responsible for investing and managing the funds entrusted to its care.

[2:35:27 PM](#)

MS. RODELL examined the POMV on slide 4, which read as follows [original punctuation provided]:

Resolutions 03-05 , 04-09

Percent of Market Value

- ♣ Supporting a constitutional amendment to limit the annual Fund payout to not more than a 5% POMV averaged over a period of 5 years

- ♣ A constitutional POMV spending limit, has the accompanying benefit of assuring permanent inflation proofing of the entire Fund

[2:36:12 PM](#)

MS. RODELL highlighted the Board of Trustees' recommitment to a POMV structure in 2018 on slide 5, which read as follows [original punctuation provided]:

Resolution 18-04

Sustainable Rules- Based Legal Framework for Fund Transfers

Affirms the importance of formulaic management of transfers into and out of the ERA to ensure sustainability and long-term growth of the Fund, by identifying four key principles:

- ♣ Adherence
- ♣ Sustainability
- ♣ Inflation Proofing
- ♣ Real Growth

[2:37:12 PM](#)

MS. RODELL detailed Resolution 20-01 on slide 6, which read as follows [original punctuation provided]:

Resolution 20-01

The Board recognizes the essential step taken to codify an annual, value-based draw from the Fund through the enactment of SB 26, Chapter 16 SLA 18.

This resolution brings forth additional measures to enhance the sustainable use of Fund earnings for the benefit of all generations of Alaskans, including:

- ♣ Transform, by constitutional or statutory amendment, the Alaska Permanent Fund and Earnings Reserve Account into a single fund and limit the annual draw to the Fund's long-term real return

- ♣ Consider adjustments to the existing rules-based system governing Fund transfers, if the ERA and Principal are not combined:

- ♣ Periodic Review of Fund Return Assumptions
- ♣ ERA Balance Buffer (4x the annual draw)

[2:38:12 PM](#)

MS. RODELL turned to slide 7, which read as follows [original punctuation provided]:

Trustees' Paper Volume 9

Successful SWFs operate within a rules-based system that allows them to perform a combination of saving, stabilization, and income-generation functions.

This paper proposes a number of reforms that will strengthen the stability and sustainability of Alaska's Permanent Fund:

- LESSON #1: MISSION CLARITY
- LESSON #2: THE IMPORTANCE OF RULES
- LESSON #3: SUCCESSFUL ENFORCEMENT OF SAVING RULES
- LESSON #4: DESIGNING A POMV SPENDING RULE
- LESSON #5: REFORMING THE ERA

[2:38:42 PM](#)

MS. RODELL addressed statutory distribution calculations on slide 9, which read as follows [original punctuation provided]:

Income Based

Sec. 37.13.140. Income.

(a) ... Income available for distribution equals 21 percent of the net income of the fund for the last five fiscal years, including the fiscal year just ended, ...

Sec. 37.13.145. Disposition of income.

(b) ... 50 percent of the income available for distribution under AS 37.13.140.

Value Based

Sec 37.13.140. Income.

(b) ...The amount available for appropriation is 5.00 percent of the average market value of the fund for the first five of the preceding six fiscal years, including the fiscal year just ended ...

Sec. 37.13.145. Disposition of income.

(e) The legislature may not appropriate from the earnings reserve account to the general fund a total amount that exceeds the amount available for appropriation under AS 37.13.140(b) in a fiscal year.

(f) The combined total of the transfer under (b) of this section and an appropriation under (e) of this section may not exceed the amount available for appropriation under AS 37.13.140(b).

[2:43:14 PM](#)

REPRESENTATIVE PRAX asked whether inflation proofing covered itself if the draws were calculated on POMV and a five-year average.

MS. RODELL stated that inflation proofing would be accounted for if the fund was not a two-account structure. She noted that the Board of Trustees supported constitutionalizing the POMV to create a mechanism that naturally inflation proofs itself; therefore, the fund would no longer rely on appropriation mechanisms to continue to grow.

[2:45:27 PM](#)

MS. RODELL resumed the presentation on slide 10 and highlighted the distribution calculations that were subject to appropriation.

[2:47:21 PM](#)

REPRESENTATIVE PRAX asked whether theoretically, the statutory dividend fund transfer calculation under AS 37.13.145(b) could exceed the POMV calculation under AS 37.13.140(b).

MS. RODELL answered yes, it could be a possibility if there was a market draw down that substantially lowered the calculation of the POMV.

MS. RODELL, in response to an additional question from Representative Prax, directed attention to slide 12. She pointed out that as of June 30, 2021, the total fund value was \$81,098,900,000 with the principal comprising \$60.1 billion and the ERA comprising \$21 billion.

[2:51:09 PM](#)

CHAIR SPOHNHOLZ returned to slide 9 and highlighted AS 37.13.145(f). She pointed out that during the hearing on HB 3002, Representative Eastman identified the tension in the laws as it related to the dividend formula. She recalled that the original version of Senate Bill 26 included a 75/25 split, which would have resolved the dividend situation at that point in time. She said, "Hindsight is often 20/20."

[2:53:11 PM](#)

REPRESENTATIVE PRAX asked how a catastrophic event would affect the legislature's ability to access the funds if the ERA and the principal were combined into one account.

MS. RODELL emphasized the importance of having reserves available for every eventuality, as opposed to a prudent spend on the permanent fund. She pointed out that if both the ERA and the principal were rolled into one account, the legislature would be limited by the constitution on the draw. She said if there was a catastrophe, there would be various avenues that the legislature could take to address that issue.

[2:55:02 PM](#)

REPRESENTATIVE PRAX sought to confirm that in theory, \$9 billion was available whereas if the two accounts were combined, only \$3 billion or \$4 billion would be available.

MS. RODELL pointed out that the hypothetical posed by Representative Prax assumed that the accounts were rolled up at their current balances; further, that a portion of the ERA was not appropriated into one of the other budget reserves in anticipation of the passage of the constitutional amendment.

CHAIR SPOHNHOLZ, in response to Representative Prax, noted that several of the proposed constitutional amendments addressed the permanent fund, none of which had passed. She agreed that all proposals need to be stress tested and emphasized the importance of diversifying the revenue stream.

REPRESENTATIVE PRAX believed that there may be a liquidity issue if there were a catastrophic event.

[2:57:25 PM](#)

MS. RODELL, in response to Representative Eastman, indicated that APFC had not identified a target amount for the fund.

REPRESENTATIVE EASTMAN asked whether the corporation's goal was for the fund to grow in perpetuity.

MS. RODELL believed the answer was yes.

[2:59:31 PM](#)

REPRESENTATIVE EASTMAN asked whether APFC had discussed a minimum balance at which point there shouldn't be more taken from the fund.

MS. RODELL answered no; however, she pointed out that if the constitutional limit was 5 percent, that would in and of itself protect the fund by creating a natural spending limit on the fund.

[3:01:08 PM](#)

MS. RODELL, in response to Representative Story, confirmed that the amount of \$12.2 billion in the ERA (as shown on slide 12) was an adequate buffer to withstand market movements while maintaining POMV commitments. Additionally, she emphasized the

corporation's commitment to following a rules-based system and staying within the established spending rules.

[3:02:56 PM](#)

REPRESENTATIVE JOSEPHSON addressed the court decision that identified PCE as a separate fund held by a corporation. From that decision, he inferred that the state was allowed to create separate funds outside the GF. He recalled the argument made by Representative Eastman that the state could effectively evade the 5 percent rule by appropriating beyond that to things not in the GF. He asked whether that sounded like a sustainable plan that could produce the necessary income to provide for the government.

MS. RODELL indicated that the only way the POMV would continue to "kick off" the level of income that the state had come to rely on, was to ensure that the balances under that calculation continue to be robust. She added that while the legislature was perfectly within its purview to appropriate the ERA down to zero, long-term impacts would be realized on the budget going forward, as the amount of revenue available to the state for essential purposes would decrease.

[3:06:11 PM](#)

MS. RODELL resumed the presentation on slide 13 to contextualize the importance of the fund to Alaska's economy. She reported that since inception, realized earnings totaled \$76.6 billion. She proceeded to analyze the distribution of those realized earnings from FY 17 to FY 21. She pointed out that the POMV demonstrated that the discipline of spending rules had allowed for prudent spending while saving enough to generate a healthy fund that could continue to provide for Alaskans well into the future.

[3:09:24 PM](#)

REPRESENTATIVE EASTMAN asked whether APFC had performed an independent analysis on the likelihood of higher inflation; additionally, he asked whether there had been any discussion on adjusting the 5 percent to account for potential high inflation.

MS. RODELL stated that the Board of Trustees had not discussed recommending an adjustment to the spending rule of 5 percent to account for inflation. However, the board had considered the impact that high inflation scenarios could have on the

investment performance of the fund and how that could affect growth going forward.

[3:10:46 PM](#)

REPRESENTATIVE EASTMAN asked whether APFC had the resources to conduct an independent analysis on the potential of high inflation in the future.

MS. RODELL said high level analyses had been performed by a risk group.

[3:11:51 PM](#)

MS. RODELL, in response to Representative Eastman, explained that the goal of the risk scenarios was to ensure that the Board of Trustees understands the potential risks that could be incurred under certain conditions with the asset allocation that had been directed to invest through. She added that the risk presentations provide likelihoods, or "tail risks," which were ongoing measurements that the board looks at to ensure prudent risks are being taken.

[3:13:53 PM](#)

REPRESENTATIVE JOSEPHSON asked what concerns APFC would have if HJR 1 were to pass in its current form with the addition of the language "there shall be a PFD."

MS. RODELL said her only concern would be the lack of a cap on the distribution.

CHAIR SPOHNHOLZ noted that the cap in HJR 1 was currently 5 percent.

[3:15:10 PM](#)

REPRESENTATIVE SCHRAGE asked for APFC's opinion on an excess draw and whether the context for an excess draw mattered.

MS. RODELL stated that knowing how much would be taken out of the fund was very beneficial to APFC. She indicated that the corporation would like that to continue.

[3:18:40 PM](#)

REPRESENTATIVE JOSEPHSON asked whether APFC viewed the transfer of money from the ERA to the corpus as a violation of the 5 percent rule.

MS. RODELL answered no because it was not leaving the fund.

[3:19:09 PM](#)

CHAIR SPOHNHOLZ asked whether the numbers on slide 14, which showed state revenues and ERA draws from 1969 to 2030, had been adjusted for inflation and/or population.

MS. RODELL said the data was taken from the state Revenue Resources book, she offered to follow up with the requested information.

[3:19:43 PM](#)

CHAIR SPOHNHOLZ encouraged members to read the Board of Trustees' papers, the latest of which reiterated their commitment to spending rules.

[3:21:32 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Special Committee on Ways and Means meeting was adjourned at 3:21 p.m.