

**ALASKA STATE LEGISLATURE**  
**SENATE STATE AFFAIRS STANDING COMMITTEE**

February 9, 2021

3:34 p.m.

**MEMBERS PRESENT**

Senator Mike Shower, Chair  
Senator Lora Reinbold, Vice Chair  
Senator Mia Costello  
Senator Roger Holland  
Senator Scott Kawasaki (via teleconference)

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

SENATE BILL NO. 53

"An Act relating to use of income of the Alaska permanent fund; relating to the amount of the permanent fund dividend; relating to the duties of the commissioner of revenue; relating to an advisory vote on the permanent fund; providing for an effective date by repealing the effective date of sec. 8, ch. 16, SLA 2018; and providing for an effective date."

- HEARD & HELD

SENATE JOINT RESOLUTION NO. 6

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

- HEARD & HELD

SENATE JOINT RESOLUTION NO. 1

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

- HEARD & HELD

SENATE BILL NO. 39

"An Act relating to elections; relating to voter registration; relating to ballots and a system of tracking and accounting for ballots; establishing an election offense hotline; designating as a class A misdemeanor the collection of ballots from other voters; designating as a class C felony the intentional opening or tampering with a sealed ballot, certificate, or package of ballots without authorization from the director of the division of elections; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

**PREVIOUS COMMITTEE ACTION**

BILL: SB 53

SHORT TITLE: PERM FUND; ADVISORY VOTE

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

01/25/21	(S)	READ THE FIRST TIME - REFERRALS
01/25/21	(S)	STA, JUD, FIN
02/04/21	(S)	STA AT 3:30 PM BUTROVICH 205
02/04/21	(S)	Scheduled but Not Heard
02/09/21	(S)	STA AT 3:30 PM BUTROVICH 205

BILL: SJR 6

SHORT TITLE: CONST. AM: PERM FUND & PFDS

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

01/22/21	(S)	READ THE FIRST TIME - REFERRALS
01/22/21	(S)	STA, JUD, FIN
02/04/21	(S)	STA AT 3:30 PM BUTROVICH 205
02/04/21	(S)	Scheduled but Not Heard
02/09/21	(S)	STA AT 3:30 PM BUTROVICH 205

BILL: SJR 1

SHORT TITLE: CONST AM: GUARANTEE PERM FUND DIVIDEND

SPONSOR(s): WIELECHOWSKI

01/22/21	(S)	PREFILE RELEASED 1/8/21
01/22/21	(S)	READ THE FIRST TIME - REFERRALS
01/22/21	(S)	STA, JUD, FIN
02/09/21	(S)	STA AT 3:30 PM BUTROVICH 205

**WITNESS REGISTER**

MIKE BARNHILL, Deputy Commissioner  
Department of Revenue  
Juneau, Alaska

**POSITION STATEMENT:** Introduced SJR 6 and SB 53 on behalf of the administration.

BILL MILKS, Chief Assistant  
Civil Section  
Department of Law  
Juneau, Alaska

**POSITION STATEMENT:** Presented the sectional analyses for SJR 6 and SB 53.

SENATOR BILL WIELECHOWSKI  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Sponsor of SJR 1.

SONJA KAWASAKI, Staff  
Senator Bill Wielechowski  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented the sectional analysis for SJR 1 on behalf of the sponsor.

#### **ACTION NARRATIVE**

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**CHAIR MIKE SHOWER** called the Senate State Affairs Standing Committee meeting to order at 3:34 p.m. Present at the call to order were Senators Holland, Kawasaki (via teleconference) Costello, and Chair Shower.

#### **SJR 6-CONST. AM: PERM FUND & PFDS equal** **SB 53-PERM FUND; ADVISORY VOTE**

[3:35:21 PM](#)

CHAIR SHOWER announced the consideration of SENATE JOINT RESOLUTION NO. 6 Proposing amendments to the Constitution of the State of Alaska relating to the Alaska permanent fund, appropriations from the permanent fund, and the permanent fund dividend.

and

SENATE BILL NO. 53 "An Act relating to use of income of the Alaska permanent fund; relating to the amount of the permanent fund dividend; relating to the duties of the commissioner of revenue; relating to an advisory vote on the permanent fund; providing for an effective date by repealing the effective date

of sec. 8, ch. 16, SLA 2018; and providing for an effective date."

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MIKE BARNHILL, Deputy Commissioner, Department of Revenue, Juneau, Alaska, suggested that it would make sense for the committee to start with SJR 6, which lays out the structure, followed by SB 53 that implements the details of the structure.

CHAIR SHOWER agreed.

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MR. BARNHILL stated that SJR 6 proposes to convert the Alaska Permanent Fund in the Alaska Constitution from its existing two-account structure to a one-account endowment structure. The goal is for the assets to fund the objectives of the endowment both today and in the future. The assets of the endowment are invested with a long-term investment horizon to take advantage of long-term capital appreciation. An endowment has a distribution of spending rule that balances spending with preserving the inflation-adjusted value of the deposited funds.

He emphasized that an endowment preserves intergenerational equity; it is designed to be of indefinite duration.

[3:39:17 PM](#)

SENATOR COSTELLO asked if this elevates the existing endowment approach that is in statute to the constitution.

MR. BARNHILL answered that the permanent fund currently has a two-account and SJR 6 proposes to convert that to a one-account structure in the constitution.

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SENATOR REINBOLD asked, 1) why change the permanent fund to an endowment structure and 2) how doing so will change the permanent fund dividend (PFD).

MR. BARNHILL answered that it is modernization of the permanent fund two-account structure that follows the spending rule to save the principal and spend the income that is generated by holdings in the principal account. He said the problem with the legacy trust approach was that trust investment managers tended to tilt the asset allocation to investments that generated cash rather than capital appreciation, and that limits the potential growth of the trust.

He related that beginning in the 1950s interest grew in diversifying trust assets to take advantage of the stock market and capital appreciation. The solution was to develop the one-account endowment structure, and that spread throughout the country and world in the 1970s, '80s and '90s. He noted that it has taken time for the legal and accounting rules governing funds to catch up with investment practices.

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MR. BARNHILL advised that since 1976 the permanent fund has been picking up elements of an endowment. In 1980, the statute was changed to allow realized capital gains to flow to the earnings reserve account and inflation-proofing was appropriated back to the principal account. The legislature started to permit the permanent fund to invest in an increasing array of investments, including stocks and real estate. Then in 2005 the Permanent Fund Corporation received permission to invest as it saw fit so long as it followed the prudent investor rule on a portfolio wide basis.

He said the last step the legislature took towards an endowment structure was in 2018 when it adopted a distribution rule in Senate Bill 26. Initially the distribution rule was 5.25 percent of the lagging five-year market value of the permanent fund and today it is five percent.

MR. BARNHILL advised that the remaining step to convert to an endowment is to adopt the one-account structure and SJR 6 does that in the constitution. He maintained that the benefit of converting to a one-account structure was that there would no longer be the recurring issue of whether to exhaust the earnings reserve account. The one-account structure eliminates the earnings reserve account.

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SENATOR REINBOLD commented that the extremely long answer probably lost many listeners. She asked him to justify, briefly and in layman's terms, the reason for modernizing the legacy two-account structure.

MR. BARNHILL said the risk of the two-account structure is that the balance of the earnings reserve could be drawn down to zero, and that would mean no money for either permanent fund dividends or government spending. SJR 6 ensures that never happens.

SENATOR REINBOLD said the idea of keeping the principal in one account was to prevent it from being used and shifting to a one-

account structure would make the entire account available. She asked if a percent of market value (POMV) of the total of the earnings reserve and the principal would be available to withdraw.

MR. BARNHILL responded that endowments only spend a certain percentage of the market value each year and the distribution rule is designed to protect the inflation-adjusted value, so the endowment remains the same from an inflation perspective at all points in time. The concept of intergenerational equity is that the corpus will be maintained for all time.

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CHAIR SHOWER asked, under the one-account structure, what size majority vote would be required to access funds beyond the 5 percent POMV draw.

MR. BARNHILL answered that SB 53 establishes the annual distribution rule of 5 percent of the lagging 5-year market value, and SJR 6 establishes that the legislature cannot access funds in excess of that amount.

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SENATOR COSTELLO commented on the legislature's poor track record in following its own laws and asked what protections the legislation provides to assure Alaskans that the legislature would be unable to deplete the fund.

MR. BARNHILL answered that the basic protection is the legislature setting the distribution rule guided by advice from the Alaska Permanent Fund Corporation about their projection of real returns over the next 10-20 years. The idea is that the legislature should not spend any more than the real return out of the endowment.

MR. BARNHILL said it is up to the legislature to set the distribution rule in statute but the legislature would have the flexibility and discretion to change that distribution over time. He cautioned that any change should be done in a way that preserves the inflation-adjusted value of the permanent fund so it is sustainable and permanent.

CHAIR SHOWER asked if he agrees that there is no guarantee that the legislature would not change the statutory distribution rate at some time in the future.

MR. BARNHILL agreed that the legislation gives the legislature the ability to set the distribution rule higher than 5 percent. He described this as a strength of the legislation, maintaining that the legislature has consistently followed the statute since the inception of the permanent fund.

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CHAIR SHOWER asked him to discuss the reason for setting the 5 percent draw because a number of economists consider a 4.5 percent draw to be more reasonable.

MR. BARNHILL answered that the goal is to find the number that balances when you look at the real return going back 1-10 years and you look at the projected real return going forward 1-10 years. For years, 5 percent was thought to be a fair balance, but many people think that will be hard to achieve going forward. He advised that the Permanent Fund Corporation and the Department of Revenue have a lot of information to help inform the legislature in achieving the right balance.

CHAIR SHOWER asked if the administration was amenable to reducing the 5 percent distribution rate if the legislature determines that 4.5 percent or 4.75 percent is more prudent.

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MR. BARNHILL replied he can't speak for the administration but he believes it would be appropriate for the legislature to schedule hearings so all the information about striking the right balance can be put on the table.

CHAIR SHOWER asked if he was ready to move on to SB 53.

MR. BARNHILL said he first wanted to touch on dynamic distribution rules that float based on inflation and market returns. The point is to smooth the volatility in distributions. He noted that a number of university endowments use dynamic distribution rules and that the permanent fund trustees recently issued Trustees' Paper Volume 9 that discusses different distribution rules used for endowments. He also mentioned House Bill 213 that authorized the conversion of the public-school trust to an endowment. Following the conversion, DOR redeployed the trust assets to take better advantage of capital appreciation and so far it is working well. He suggested that this could also work for the legislature.

MR. BARNHILL restated that SB 53 proposes a static 5 percent distribution rule and a 50:50 allocation of the distribution between the permanent fund dividend and government expenses.

CHAIR SHOWER asked Mr. Milks to present the sectional analysis for SJR 6.

[4:05:57 PM](#)

BILL MILKS, Department of Law, Juneau, Alaska, presented the sectional analysis for SJR 6:

**Section 1:** This section would amend the existing language of the permanent fund amendment to provide that permanent fund income shall be retained in the permanent fund except as provided in new subsections (b), (c) and (d) as set forth in Section 2.

**Section 2:** This section would create three new subsections in the permanent fund amendment.

Subsection (b) would provide that each fiscal year the legislature may appropriate an amount as provided by law from the permanent fund to the general fund that represents a percentage of the market value of the permanent fund for the first five of the preceding six fiscal years.

Subsection (c) would provide that a portion of the amount appropriated under subsection (b) shall be allocated for permanent fund dividends as provided by law. Subsection (c) further provides that a change in the amount allocated for dividends must be approved by the voters as set forth in subsection (d).

Subsection (d) would require that a law passed by the legislature to amend the amount allocated for permanent fund dividends would not take effect unless the voters approved the proposed law at the next statewide election. If approved by the voters, it would take effect 90 days after certification of the election or on a special effective date concurred in by two-thirds of the members of each house upon passage, whichever date is later.

**Section 3:** This transition provision would address four issues.

Subsection (a) would provide that on June 30, 2023, the unencumbered balance of the earnings reserve account would be deposited in the permanent fund and become part of the principal of the fund.

Subsection (b) would provide that the amendments to the permanent fund would apply to appropriations made for fiscal year 2024 and thereafter.

Subsection (c) would provide that for purposes of the permanent fund amendment, the law governing the percentage of the market value of the permanent fund that may be appropriated to the general fund under Section 15(b) would be the law in place at the time of the adoption of the 2022 amendments to the permanent fund. Additionally, the law setting forth that percentage would not be a law that is enacted in an appropriation bill.

Subsection (d) would provide that for purposes of the permanent fund amendment, the law governing the amount allocated for permanent fund dividends under Section 15(c) would be the law in place at the time of the adoption of the 2022 amendments to the permanent fund. Additionally, the law setting forth that amount would not be a law that is enacted in an appropriation bill. Further, a change in the law regarding dividends would be subject to the requirements set forth in Section 15(d) requiring voter approval.

**Section 4:** This section would require that this amendment be placed on the ballot in the 2022 general election.

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CHAIR SHOWER held SJR 6 in committee for further consideration.

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CHAIR SHOWER turned attention to SB 53.

MIKE BARNHILL, Deputy Commissioner, Department of Revenue, said he explained the mechanics of SB 53 during the discussion of SJR 6, but Mr. Milks would present the sectional analysis.

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BILL MILKS, Department of Law, Juneau, Alaska, presented the sectional analysis for SB 53. [Original punctuation provided.]

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**Section 1:** This bill would establish a new statutory framework for spending of permanent fund income. The spending, based on the market value of the permanent fund, would be allocated for two purposes divided equally: 50% would be available for dividends and 50% to the general fund.

Because the bill would establish a new framework for spending permanent fund income, Section 1 would delete language from the current AS 37.13.140(a) that describes a formula to determine the amount of income of the fund that is available for distribution. Section 1 would also provide that the amount available for appropriation from the earnings reserve account is 5% of the average market value of the fund for the first five of the preceding six fiscal years including the fiscal year just ended. That percentage is a reduction from 5.25% that has been in place since SB 26 passed in 2018 although the reduction to 5% is scheduled to become effective on July 1, 2021 based on a delayed effective date in SB 26. Finally, Section 1 would amend AS 37.13.140(b) to clarify that the amount available for appropriation from the earnings reserve account may not exceed the balance in the earnings reserve account.

**Section 2:** This section would amend AS 37.13.145(b) to provide that of the amount appropriated each year from the earnings reserve account under AS 37.13.140(b):

- 50 percent may be appropriated to the dividend fund for dividends and
- 50 percent may be appropriated to the general fund.

**Section 3:** This section amends AS 37.13.145(c) to authorize an appropriation, after the appropriation to the dividend fund and the general fund, to the principal of the permanent fund for inflation proofing.

**Section 4:** This section regarding permanent fund income earned as a result of the *State v. Amerada Hess* case clarifies that such money is not available for appropriation to the dividend fund or the principal

and that it shall be deposited into the capital income fund.

**Section 5:** This section clarifies that net income of the mental health trust fund is not included in the computation of the amount available for appropriation from the permanent fund earnings reserve account under AS 37.13.140(b) as described in section 1 of the bill.

**Section 6:** This section clarifies that the Alaska Permanent Fund Corporation shall calculate annually the net income of the fund according to generally accepted accounting principles and excluding any unrealized gains or losses.

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CHAIR SHOWER noted that he mentioned the ERA and asked him to clarify how SB 53 and SJR 6 would work separately or in conjunction.

MR. MILKS explained that SB 53 proposes a 50:50 framework for spending the permanent fund income if a constitutional amendment such as SJR 6 were to pass. SB 53 is also trying to work under the permanent fund provision in existing constitutional law, which maintains the principal and income (ERA) distinction. In summary, SB 53 is proposing a framework to work right now when utilizing the ERA but also to be the pathway forward under SJR 6.

MR. MILKS deferred further explanation to Mr. Barnhill.

CHAIR SHOWER said he wanted the record to reflect the administration's explanation of how it might work if both bills passed or if just one or the other passed. SB 53 proposes statutory changes whereas SJR 6 proposes constitutional changes with a vote of the people, which are very different lifts.

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SENATOR COSTELLO mentioned the obligation to inflation proof and directed attention to Section 3 on page 2, lines 26-27 of SB 53 that deletes the phrase, "corporation shall transfer" and inserts the phrase, "legislature may appropriate." She questioned the reason for making the appropriation to inflation proof permissive. She also asked why the legislature should be able to change the five percent of market value (POMV) appropriation if the people of Alaska voted for a five percent POMV appropriation. "If the people of Alaska say five percent, I

would want to be held to that." She asked if this package of legislation provides any assurance that the legislature would be held to the POMV appropriation that the people of Alaska choose.

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MR. BARNHILL answered that the people only vote if the allocation of the distribution between government and the permanent fund dividend changes. The people do not get to vote on the distribution percentage that the legislature sets.

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MR. MILKS referenced Senator Costello's question about inflation proofing in Section 3 and explained that the practice has been to appropriate the amount for inflation proofing and that is the reason that SB 53 uses the term "appropriate."

SENATOR COSTELLO clarified that her question was about the change from the term "shall" to the term "may." Existing law says the "corporation shall transfer" so they do inflation proof. She questioned the reason for changing the language to the permissive the "legislature may appropriate."

MR. MILKS answered that the bill says that because the Alaska Supreme Court ruled in Wielechowski v. Alaska that to move the money it must be by appropriation. The "shall transfer" language is also in the permanent fund dividend section and the Alaska Supreme Court said that is subject to appropriation.

CHAIR SHOWER said legislators get a little antsy when legislation does not appropriately require adherence to the intent. He noted that the assurances that Senator Costello has asked for are difficult to come by.

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MR. MILKS continued the sectional analysis for SB 53.

**Section 7:** This section clarifies consistent with section 2 that the legislature places money in the dividend fund by appropriation.

**Section 8:** This section repeals AS 37.13.145(e) and 37.13.145(f) which relate to total appropriations from the earnings reserve. The framework for appropriations from the earnings reserve are set forth in Sections 1 and 2 which provide for an appropriation from the earnings reserve account based on the average market

value of the fund and that the money from that appropriation would be used based on a 50 percent and 50 percent split for dividends and the general fund.

**Section 9:** This section provides for an advisory vote at a special statewide election not less than 90 nor more than 120 days after adjournment of the first regular legislative session which would ask the voters whether they approve of this law providing that the legislature may appropriate five percent of the market value of the permanent fund each year which would be used as follows: 50 percent for dividends and 50 percent for government services.

**Sections 10 and 11:** These sections repeal the existing provisions of SB 26 related to percentage of market value appropriation from the permanent fund which are replaced by Section 2 of this bill providing for a 5 percent of market value appropriation.

**Section 12:** This section provides that the advisory vote provision (section 9) takes effect immediately under AS 01.10.070(c).

**Section 13:** This section provides that except for section 12, this Act would take effect July 1, 2021.

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CHAIR SHOWER held SB 53 and SJR 6 in committee.

**SJR 1-CONST AM: GUARANTEE PERM FUND DIVIDEND**

[4:26:39 PM](#)

CHAIR SHOWER announced the consideration of SENATE JOINT RESOLUTION NO. 1 Proposing amendments to the Constitution of the State of Alaska relating to the Alaska permanent fund and appropriations from the Alaska permanent fund.

[4:26:57 PM](#)

SENATOR BILL WIELECHOWSKI, Alaska State Legislature, Juneau, Alaska, sponsor of SJR 1, said Senator Costello keyed in on the problem with the governor's permanent fund bills; they do not require payment of a permanent fund dividend (PFD). The language is permissive and says the legislature "may" appropriate. He said that was the Alaska Supreme Court interpretation even though the permanent fund laws use the term "shall." He opined

that [SB 53 and SJR 6] do not fix the problem and SJR 1 proposes a better way.

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SENATOR WIELECHOWSKI explained that SJR 1 proposes that the people of Alaska vote on whether to enshrine the permanent fund dividend program in the Alaska Constitution. That is the only true way to protect the dividend, he said. He pointed out that in 2018 the legislature restructured the program, but the dividends have continued to shrink. He said the permanent fund statutes are very clear, but the Alaska Supreme Court has said that the plain language of the statutes can be ignored.

SENATOR WIELECHOWSKI said the governor can veto the PFD to the level he or she chooses and future legislatures can set the PFD at any level it chooses. He noted that some legislators have advocated for setting the dividend at zero. He said businesses and organizations have demanded predictability, stability, and consistency in the taxing structure and he believes that Alaskans deserve the same predictability, stability, and consistency with their PFDs.

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SENATOR WIELECHOWSKI described the PFD program as one of the most successful and popular programs in American history for individual Alaskans and businesses. He cited the UAA Institute of Social and Economic Research (ISER) that reported that tens of thousands of Alaskans were elevated from poverty every year because of the statutory PFD. For many years Alaska has had the lowest income inequality in the US, largely due to the PFD. He noted that ISER has also reported that the PFD creates thousands of jobs each year for Alaskans.

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SENATOR WIELECHOWSKI continued the introduction of SJR 1 highlighting excerpts from the following sponsor statement:

In 1976 Alaskans voted to establish the Alaska Permanent Fund in the Alaska Constitution. Under the Permanent Fund Clause, the Fund would automatically receive at least twenty-five percent of the state's mineral resource royalties, rents, and bonuses. While the principle of the Fund was to be locked from use and left for investment purposes only, Governor Jay Hammond and the Alaska Legislature expected that the income generated by the Fund could be used by the

state, including the prospect of earnings distributed as dividends to Alaskans.

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Following the Fund's creation, Alaska policymakers began observing that special interests and the politically connected were reaping more benefit from the Fund earnings through government spending than average Alaskans. This concern provided significant impetus for the legislature's establishment of the Permanent Fund Dividend by law in 1982, providing a definitive statutory formula for its calculation.

The PFD was consequently meant to represent every Alaskan's small, equal share of the resource wealth we collectively own under Article IX, section 2 of the Alaska Constitution, which states: "The legislature shall provide for the utilization, development, and conservation of all natural resources belonging to the State, including land and waters, for the maximum benefit of its people."

As Governor Hammond saw it, a dividend was "the best, perhaps the *only*, way to meet our constitutional mandate to manage our natural resources for the maximum benefit of all the people," because it "grant[s] each citizen an ownership share in Alaska's resource wealth to be used as they, not government, felt was for their maximum benefit."<sup>1</sup>

[4:35:06 PM](#)

Representative Al Adams, Chair of the House Finance Committee, explained the committee's intent for the new program: "[T]he payment of dividends shall have *first call*" on the Fund's income available for use, "*regardless of what other uses the income is put to.*"<sup>2</sup> Hammond also saw the PFD program as "the most effective way of curbing excessive government growth"<sup>3</sup> and envisioned that the PFD would protect the Fund from "invasion by politicians by creating a militant ring of dividend recipients who would resist any such usage if it affected their dividends."<sup>4</sup>

Under these sound policy rationales, the PFD was distributed to Alaskans for 34 years in accordance with its statutory transfer requirement in AS

37.12.145(b). But in 2016 Governor Bill Walker vetoed the legislature's full funding for the PFD by about one-half. Subsequently, the Alaska Supreme Court ruled that the governor's veto was not illegal, declaring that, "Absent another constitutional amendment, the Permanent Fund dividend program must compete for annual legislative funding just as other state programs."<sup>5</sup> Since that ruling, the legislature itself has acted to reduce the PFD; every Alaskan has experienced nearly \$7,000 in PFD cuts over the last five years.

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Senate Joint Resolution 1 aims to enshrine the PFD program in the Alaska Constitution to effect the fair and prudent policy rationales for which the program was intended to achieve. It would protect overspending the Fund by moving the balance of the Earnings Reserve Account, which currently holds the Fund's investment earnings, into the Fund corpus, where all future earnings will be retained and thereby safeguarded from access. SJR 1 then limits the permissible draw from the Fund to five percent (5%) of a five-year averaged market value. The people would then be apportioned either fifty percent (50%) of the draw value or the amount of the historic calculation formula—whichever is greater. In this way, the people will always receive *first call* on the earnings of the Fund, ahead of government.

Failing to constitutionalize the PFD would enable a disproportionate distribution of Alaska's oil wealth to those most able to leverage political influence to persuade lawmakers to fund their endeavors, at the expense of average Alaskans. Neglecting to constitutionalize the PFD would permit lawmakers to continue avoiding their obligation to address other revenue measures than the Fund earnings, placing the Permanent Fund at grave risk.

Please join me in supporting SJR 1 to constitutionally enshrine the Permanent Fund Dividend to provide for the maximum benefit of all Alaskans and ensure the prosperity of the Permanent Fund for generations of Alaskans to come.

<sup>1</sup> Jay Hammond, *DIAPERING THE DEVIL: A LESSON FOR OIL RICH NATIONS* 16, 2d Ed. (2011) (emphasis in original).

<sup>2</sup> House Finance Committee, Committee Letter of Intent HCS CSSB 842, Minutes of House Finance Committee, Senate Bill 842, at 736 (May 14, 1982) (emphasis added).

<sup>3</sup> Testimony of Governor Hammond before the House Finance Committee (Mar. 15, 1982).

<sup>4</sup> Jay Hammond, *DIAPERING THE DEVIL: A LESSON FOR OIL RICH NATIONS* 16, 2d Ed. (2011).

<sup>5</sup> *Wielechowski v. State*, 403 P.3d 1141, 1152 (Alaska 2017).

SENATOR WIELECHOWSKI advised that SJR 1 honors the historic formula and it allows the people to vote on whether or not to protect the PFD in the constitution.

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SENATOR COSTELLO expressed appreciation that the committee was hearing the governor's bills, [SB 53 and SJR 5,] and SJR 1 in the same meeting. She pointed out that the governor's bills put faith and trust in the legislature to make annual appropriations whereas SJR 1 places faith and trust in the constitution. She stated her preference for the latter, noting that SJR 1 also takes care of Alaskans first and government second.

CHAIR SHOWER said he heard some of the same arguments two years ago when a previous version of the bill was introduced. He commented on the general reluctance to change the constitution and the recognition that it may be the only way to set the bar high enough to actually provide protection. He cautioned that without a high bar of protection, the PFD will not be available for future generations. He also pointed out that putting the PFD in the constitution necessarily would drive actions to balance the books. That could mean reducing government services or creating more taxes. All options are on the table to find a balanced approach, he said.

He asked Ms. Kawasaki to present the sectional analysis for SJR 1.

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SONJA KAWASAKI, staff, Senator Bill Wielechowski, Alaska State Legislature, Juneau, Alaska, read the sectional analysis for SJR 1:

**Section 1 - Elimination of the Permanent Fund Earnings Account**

Under Article IX, section 15 of the Alaska Constitution the Permanent Fund is comprised of a principal that may not be accessed for government spending. The income from investments of the principal may be provided for by law. Currently, all earnings of the Fund are deposited in the Earning Reserve Account as established by law. SJR 1 Section 1 would foreclose the possibility of an earnings holding account; any future earnings would be retained as non-spendable principal.

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**Section 2 - Establishment of the POMV & PFD Payment Formula in the Constitution**

This section provides for a constitutionalized percent of market value (POMV) draw from the Permanent Fund that is set at five percent (5%) and is based on the average value of the Fund over five fiscal years.

Section 2 then establishes that payments of dividends to Alaskans will be either by the calculation set by the historic statutory formula, as constitutionalized, or fifty percent (50%) of the POMV, whichever would produce a dividend of greater value.

**Section 3 - Providing for Transition Provisions**

Article XV of the Alaska Constitution would be amended to provide for transition implementation and the timing necessary to effect the material provisions of SJR 1, upon approval of the voters. The balance of the Earnings Reserve Account would be deposited into the corpus of the Fund at the end of Fiscal Year 2023, and the material provisions of SJR 1 would become effective for state budgeting purposes during Fiscal Year 2024.

**Section 4 - Placement of the Proposal Before the Voters**

Pursuant to Article XIII, section 1, amendments to the Alaska Constitution must be presented to the voters for approval, which is only permissible during a state

general election. Under SJR 1 Section 4, the proposal would therefore be placed before the voters on November 8, 2022.

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CHAIR SHOWER asked the sponsor to comment on how it happened that the language changed from DGF to UGF in 2017.

SENATOR WIELECHOWSKI answered the statute is written to require the Permanent Fund Corporation to transfer funds from the permanent fund to the Department of Revenue (DOR) so they can calculate how much has to be paid under the dividend formula. He noted that the transfer was automatic initially, but that changed and the legislature has appropriated the money for the dividend for many years.

CHAIR SHOWER recalled that before 2017 the appropriation was designated general funds (DGF). The legislature made the appropriation but did not touch it. The statutory language changed in 2017 to undesignated general funds (UGF), which he characterized as top cover to allow the legislature to do what it wanted with the funds.

SENATOR WIELECHOWSKI said his office researched that thoroughly and would follow up with the details.

CHAIR SHOWER said that was not necessary but he wanted the record to reflect that the legislature did change things to make it easier to set the size of the dividend every year. He described it as a game of chance. He also maintained that the argument that taking part of the PFD was to pay for government services was an apples to oranges comparison.

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SENATOR WIELECHOWSKI said people have different interpretations of why there is a dividend. He offered his perspective that when the permanent fund was created there was no universal agreement on what to do with the funds. When the state received \$900 million from the lease of Prudhoe Bay, the money was spent within five or six years, which was frustrating to Alaskans of all political persuasions. The permanent fund was created with the idea of giving some of it to the people and saving some for future generations. The consensus gradually developed to ensure that every Alaskan gets some share of the resource wealth. He noted that the letter of intent attached to the permanent fund bill clarified that Alaskans, not government, were to get first call on the earnings from the permanent fund.

He pointed out that SJR 1 does not try to prevent government from using some of the permanent fund earnings. It sets up a POMV structure so that some permanent fund earnings can be used for government while also ensuring that the people continue to get their share of the resource wealth.

CHAIR SHOWER restated that everything should be on the table.

SENATOR HOLLAND questioned maintaining both the 5 percent POMV and the historic dividend formula. He asked if there was a scenario in which the 5 percent POMV could produce a dividend larger than the formula.

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SENATOR WIELECHOWSKI answered that SJR 1 is a brilliant solution to the issue of the legislature potentially spending the earnings reserve down to zero. It also provides a funding mechanism for government and a funding mechanism for the people to get their dividend. The legislation also tries to address the issue of a potentially smaller dividend in market downturns combined with low oil revenues. He said his team tried to address all the issues associated with eliminating the earnings reserve and continuing with the existing structure. He opined that SJR 1 does this.

CHAIR SHOWER held SJR 1 in committee for future consideration.

[5:00:42 PM](#)

There being no further business to come before the committee, Chair Shower adjourned the Senate State Affairs Standing Committee meeting at 5:00 p.m.