

ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE

January 19, 2024

1:03 p.m.

MEMBERS PRESENT

Representative Sarah Vance, Chair
Representative Jamie Allard, Vice Chair
Representative Ben Carpenter
Representative Craig Johnson
Representative David Eastman
Representative Andrew Gray
Representative Cliff Groh

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE JOINT RESOLUTION NO. 7

Proposing amendments to the Constitution of the State of Alaska requiring payment of a dividend to eligible state residents.

- MOVED CSHJR 7(W&M) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HJR 7

SHORT TITLE: CONST AM: PERMANENT FUND DIVIDEND

SPONSOR(s): WAYS & MEANS

03/01/23	(H)	READ THE FIRST TIME - REFERRALS
03/01/23	(H)	W&M, JUD
03/06/23	(H)	W&M AT 6:00 PM DAVIS 106
03/06/23	(H)	Heard & Held
03/06/23	(H)	MINUTE(W&M)
03/08/23	(H)	W&M AT 6:00 PM DAVIS 106
03/08/23	(H)	-- MEETING CANCELED --
03/11/23	(H)	W&M AT 9:00 AM DAVIS 106
03/11/23	(H)	Heard & Held
03/11/23	(H)	MINUTE(W&M)
04/24/23	(H)	W&M AT 6:00 PM DAVIS 106
04/24/23	(H)	Heard & Held
04/24/23	(H)	MINUTE(W&M)
04/25/23	(H)	W&M AT 6:00 PM DAVIS 106

04/25/23	(H)	Scheduled but Not Heard
05/10/23	(H)	W&M AT 6:00 PM DAVIS 106
05/10/23	(H)	Moved CSHJR 7(W&M) Out of Committee
05/10/23	(H)	MINUTE(W&M)
05/12/23	(H)	W&M RPT CS(W&M) NEW TITLE 6DP 1NR
05/12/23	(H)	DP: ALLARD, TILTON, GROH, MCKAY, MCCABE, CARPENTER
05/12/23	(H)	NR: GRAY
05/15/23	(H)	MOTION FOR JUD TO WAIVE UNIFORM RULE 23 FAILED Y26 N13 E1
01/17/24	(H)	JUD AT 1:00 PM GRUENBERG 120
01/17/24	(H)	Heard & Held
01/17/24	(H)	MINUTE(JUD)
01/19/24	(H)	JUD AT 1:00 PM GRUENBERG 120

WITNESS REGISTER

JOE GELDHOF, Secretary
Permanent Fund Defenders
Juneau, Alaska

POSITION STATEMENT: Testified during the hearing on HJR 7.

MICHAEL L. JONES, representing self
Homer, Alaska

POSITION STATEMENT: Testified in support of HJR 7.

JEAN HOLT, representing self
Palmer, Alaska

POSITION STATEMENT: Testified in support of HJR 7.

KEVIN HALL, representing self
Sterling, Alaska

POSITION STATEMENT: Testified in support of HJR 7.

MARY RAVETTA, representing self
Wasilla, Alaska

POSITION STATEMENT: Testified in support of HJR 7.

JOHN MCKEEVER, representing self
Wasilla, Alaska

POSITION STATEMENT: Testified in support of HJR 7.

EMILY NAUMAN, Director
Legislative Legal Services
Legislative Affairs Agency
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on CSHJR 7(W&M).

ALEXEI PAINTER, Director
Legislative Finance Division
Legislative Agencies and Offices
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on CSHJR 7(W&M).

ACTION NARRATIVE

[1:03:17 PM](#)

CHAIR SARAH VANCE called the House Judiciary Standing Committee meeting to order at 1:03 pm Representatives Carpenter, C. Johnson, Groh, Gray, Eastman, Allard, and Vance were present at the call to order.

HJR 7-CONST AM: PERMANENT FUND DIVIDEND

[1:03:54 PM](#)

CHAIR VANCE announced that the only order of business would be HOUSE JOINT RESOLUTION NO. 7, Proposing amendments to the Constitution of the State of Alaska requiring payment of a dividend to eligible state residents. [Before the committee was CSHJR 7(W&M).]

[1:04:14 PM](#)

CHAIR VANCE opened public testimony on HJR 7.

[1:04:43 PM](#)

JOE GELDHOF, Secretary, Permanent Fund Defenders, described the proposed legislation as a constitutional override of Wielechowski v. State of Alaska, which would give the legislature an opportunity to address fundamental problems. He shared his belief that HJR 7 would be a "decent" first step that brings focus to the formula without constitutionalizing a specific calculation. He suggested that the constitutional amendment may lead to resolution on a variety of issues, such as revenue, savings, and scope of government.

[1:08:07 PM](#)

MICHAEL L. JONES, representing self, testified in support of HJR 7 as a first step towards resolving Alaska's fiscal challenges. He detailed his perception of such challenges and urged passage of the constitutional amendment as a first step in fiscal responsibility.

[1:10:54 PM](#)

The committee took a brief at-ease.

[1:11:19 PM](#)

JEAN HOLT, representing self, testified in support of HJR 7. She urged the legislature to "follow the law," adding that the proposed legislation would require the state to pay a dividend according to the formula in statute.

[1:12:34 PM](#)

KEVIN HALL, representing self, testified in support of HJR 7 and urged the legislature to think about citizens rather than special interests.

[1:14:07 PM](#)

MARY RAVETTA, representing self, testified in support of HJR 7. She urged the legislature to "follow the law" and believed that [citizens] should be included in the decision to spend from [the Alaska Permanent Fund].

[1:15:04 PM](#)

JOHN MCKEEVER, representing self, testified in support of HJR 7 to protect the permanent fund dividend (PFD) from annual "attacks" by the legislature.

[1:15:51 PM](#)

CHAIR VANCE closed public testimony on HJR 7.

[1:17:01 PM](#)

The committee took a brief at-ease.

[1:18:38 PM](#)

REPRESENTATIVE EASTMAN considered a scenario in which a future legislature changed the statutory formula, and a governor vetoed that legislation. If CSHJR 7(W&M) were enacted, he asked how the legislature could override the veto and whether to do so, the required threshold would be a two-thirds or three-quarters vote.

[1:19:32 PM](#)

EMILY NAUMAN, Director, Legislative Legal Services, Legislative Affairs Agency (LAA), noted that the proposed legislation was structured as a transfer, not an appropriation. After further clarifying the question, she stated that answering it would require speculation on how a court would rule and whether that court would find a bill that sets the formula through which the transfer happens as effectuating an appropriation. She said she was not prepared to answer that question at this time.

[1:21:58 PM](#)

REPRESENTATIVE CARPENTER, prime sponsor of CSHJR 7(W&M), following up on Representative Eastman's question, asked whether the legislation proposing a formula change would be an appropriation bill or a policy bill.

MS. NAUMAN stated that in general, an appropriation bill has a veto override threshold of three-quarters of the legislature in joint session, or a total of 45 votes. Otherwise, any other bill has a veto override threshold of two-thirds of the legislature in joint session, or a total of 40 votes. She said her hesitancy to answer on the record stemmed from an Alaska Supreme Court precedent that "muddied" the definition of an appropriations bill.

[1:23:40 PM](#)

REPRESENTATIVE EASTMAN moved to adopt Amendment 2 to CSHJR 7(W&M), labeled 33-LS0439\S.3, Nauman, 1/18/24, which read:

Page 1, line 1, following the second occurrence of "to":

Insert "**dedicated funds, relating to**"

Page 1, line 6:

Delete "The proceeds of any state tax or license"

Insert "**State revenue, from any source,** [THE PROCEEDS OF ANY STATE TAX OR LICENSE]"

Page 1, line 8:

Delete "out of"

Insert "into and within"

Page 1, line 9, following "to":

Insert "transfers out of the permanent fund and
to"

REPRESENTATIVE ALLARD objected for the purpose of discussion.

[1:23:56 PM](#)

REPRESENTATIVE EASTMAN explained that the purpose of Amendment 2 was to clarify the bill language for the public and bring the "legal parlance" back to common English, specifically in the dedicated funds provision.

CHAIR VANCE asked how the insertion of "dedicated funds" in Amendment 2 would impact other areas of the constitutional amendment.

MS. NAUMAN acknowledged that the change proposed in Amendment 2 was broader than the scope of CSHJR 7(W&M), as currently drafted. The dedicated funds provision touches nearly every dollar that comes into the state, she added. She expressed concern that the broader the change, the more likely the Alaska Supreme Court would consider the change a revision requiring a constitutional convention. In addition, she said she was unsure how the court would interpret the new language, as there was already a lot of legal precedent and historical interpretation of the current dedicated funds provision.

CHAIR VANCE questioned the difference between a permissible constitutional amendment and a constitutional revision.

MS. NAUMAN said there was not a lot of case law that offered insight on amendments versus revisions. The court would consider both qualitative and quantitative changes to the overall functioning of state government. Due to the lack of guidance, she said it was more likely that a resolution with either broad changes or numerous changes would be considered a revision by the courts.

CHAIR VANCE questioned the financial implications of the change on page 1, line 6 of Amendment 2.

[1:29:12 PM](#)

ALEXEI PAINTER, Director, Legislative Finance Division (LFD), Legislative Agencies and Offices, shared his understanding that the common interpretation of this section was broader than "just taxes" and could include investments that may not be obvious from the language.

[1:30:32 PM](#)

REPRESENTATIVE C. JOHNSON questioned whether federal dollars are considered state revenue.

MR. PAINTER said he considered all money that could be spent by a state agency as state revenue, including federal funds. He shared his understanding that [Amendment 2] would not greatly impact other fund sources, like federal funds, because they already have existing restrictions.

[1:31:47 PM](#)

REPRESENTATIVE EASTMAN questioned the impact of lines 9-14 of Amendment 2.

MS. NAUMAN described lines 9-14 as technical changes. In response to a follow up question, she proceeded to read and explain each technical change in further detail.

REPRESENTATIVE CARPENTER said the intention of the proposed legislation was to keep it as simple as possible. He opined that Amendment 2 would add unnecessary complexity and for that reason, he stated his opposition to the amendment.

REPRESENTATIVE EASTMAN withdrew Amendment 2.

[1:37:40 PM](#)

REPRESENTATIVE EASTMAN move to adopt Amendment 1 to CSHJR 7(W&M), labeled 33-LS0439\S.2, Nauman, 1/18/24, which read:

Page 2, lines 16 - 19:

Delete "Each fiscal year, without appropriation, an amount determined by a formula set out in law shall be transferred from the earnings reserve account in the permanent fund to the general fund. The amount transferred from the earnings reserve account shall

not exceed the balance of the earnings reserve account."

Insert "Except as otherwise provided in this subsection, each fiscal year, without appropriation, an amount equal to 50 percent of 21 percent of the net income of the permanent fund for the last five fiscal years, including the fiscal year just ended, shall be transferred from the earnings reserve account in the permanent fund to the general fund. The amount transferred from the earnings reserve account shall not exceed the balance of the earnings reserve account plus the net income of the permanent fund for the fiscal year just ended."

Page 2, line 21:

Delete "from"

Insert "equal to"

REPRESENTATIVE ALLARD objected for the purpose of discussion.

REPRESENTATIVE EASTMAN indicated that Amendment 1 would give future legislatures the constitutional authority to adjust the statutory formula.

REPRESENTATIVE ALLARD asked for the bill sponsor's perspective on Amendment 1.

REPRESENTATIVE CARPENTER said CSHJR 7(W&M) would require the legislature to "follow the law." He shared his belief that passing Amendment 2 would kill any opportunity for the constitutional amendment to pass the legislature. Further, he posited that any initial solution would need to be simple and keep the formula out of the Alaska Constitution. Instead, the constitution can point to the statute and allow the legislature to follow the law or change it, he said.

[1:44:05 PM](#)

REPRESENTATIVE EASTMAN questioned the lack of support for putting a calculation in statute.

REPRESENTATIVE CARPENTER opined that without additional adjustments to the state's fiscal policy, the legislature would continue to fight over the dividend. He expressed his hope that there were enough members of the legislature who want to solve the fiscal imbalance by taking one first step with CSHJR 7(W&M).

[1:47:13 PM](#)

REPRESENTATIVE C. JOHNSON asked whether Amendment 2 was, in effect, an appropriation despite having no dollar amount affixed to it.

MS. NAUMAN said was not prepared to answer that question. She added that the legislature retains the ability to change the statutes that effectuate the transfer contemplated by the constitutional amendment.

CHAIR VANCE agreed that the question was an important one. She questioned, rhetorically, whether the formula [provided in Amendment 2] was considered a transfer or an appropriation.

REPRESENTATIVE EASTMAN asked whether the prohibition on voting for an appropriation referred to the initiative process.

MS. NUAMAN confirmed that the prohibition on effectuating an appropriation through a change in the law was a restriction on referendums and initiatives and not a restriction on constitutional amendments.

REPRESENTATIVE EASTMAN, in wrap up, viewed the existing language, without Amendment 2, as "pushing the can down the road" for a future legislature to resolve the issue of the dividend calculation. He pointed out that the current statutory formula was not followed every year and was a topic of conversation and angst. He argued that CSHJR 7(W&M), as drafted, would not accomplish its desired effect without addressing the current, historic dividend calculation.

[1:53:35 PM](#)

The committee took an at-ease from 1:53 p.m. to 1:55 p.m.

[1:55:51 PM](#)

REPRESENTATIVE ALLARD maintained her objection.

A roll call vote was taken. Representative Eastman voted in favor of Amendment 1. Representatives Gray, Groh, Allard, Carpenter, C. Johnson, and Vance voted against it. Therefore, Amendment 1 failed by a vote of 1-6.

[1:58:37 PM](#)

The committee took a brief at-ease.

[1:59:06 PM](#)

REPRESENTATIVE CARPENTER commented that he was not opposed to the bill passing from committee today; however, he wanted Legislative Legal Services to provide legal opinions on the committee's unanswered questions.

CHAIR VANCE sought final comment on CSHJR 7(W&M).

REPRESENTATIVE GRAY commented on the importance of the dividend to low-income families. He said he strongly supported the proposed legislation, adding that he never wanted to see the day when the dividend, which he described as "the most liberal, progressive, public welfare program," could be taken away. He shared his belief that the best way to ensure the longevity of the PFD was to enshrine it in the constitution.

[2:02:12 PM](#)

REPRESENTATIVE GROH stressed his strong support for the PFD and emphasized the need for a comprehensive solution to the state's structural deficit. He acknowledged that the proposed legislation was one step of many that should be taken up simultaneously. He discussed the need for a robust permanent fund, a dividend, and a number of other services.

[2:04:42 PM](#)

REPRESENTATIVE EASTMAN commented on the state's increased appetite for progressive liberal welfare programs and pointed out that, more than a welfare program, the PFD ties Alaskans to the state's natural resources. He characterized the proposed legislation as a capitulation to the Alaska Supreme Court and expressed concern that it would further encourage other branches of government to intrude on the legislature's power.

[2:08:51 PM](#)

REPRESENTATIVE ALLARD expressed her support for the proposed legislation.

REPRESENTATIVE C. JOHNSON shared his belief that without the Alaska Permanent Fund, people would care less about government spending and keep a less watchful eye on the legislature. Without the public's eye, he said, "I don't trust [the

legislature]" in terms of fiscal responsibility. He opined that enshrining the dividend in the constitution would guarantee that the legislature would continue to be held accountable.

[2:11:29 PM](#)

REPRESENTATIVE CARPENTER observed that the dividend had become the go-to solution for the state's fiscal imbalance. He argued that for those who value the PFD, CSHJR 7(W&M) was the way to ensure that the dividend moves forward into the future and that additional conversations are had.

[2:13:21 PM](#)

CHAIR VANCE stated her support for the proposed legislation because it would guarantee that state resources are available to every Alaskan. She disagreed that the dividend was a liberal, progressive welfare program and reflected on the history of the PFD. Instead, she posited that the PFD was "the most equal form of distribution based on principle." Despite being a supporter of the historic formula, she described herself as a constitutional purist and for that reason, wanted to keep a dividend in the constitution and maintain formulaic flexibility in statute to respond accordingly. She expressed her hope that the legislature would retain the historic formula in statute.

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REPRESENTATIVE ALLARD moved to report CSHJR 7(W&M) out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHJR 7(W&M) was reported out of the House Judiciary Standing Committee.

[2:18:12 PM](#)

The committee took an at-ease from 2:18 p.m. to 2:20 p.m.

[2:20:55 PM](#)

CHAIR VANCE gave closing remarks and reviewed the upcoming agenda.

[2:21:17 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 2:21 p.m.