

**ALASKA STATE LEGISLATURE**  
**HOUSE SPECIAL COMMITTEE ON WAYS AND MEANS**

April 24, 2023

6:01 p.m.

**MEMBERS PRESENT**

Representative Ben Carpenter, Chair  
Representative Kevin McCabe, Vice Chair  
Representative Tom McKay  
Representative Cathy Tilton  
Representative Andrew Gray  
Representative Cliff Groh  
Representative Jamie Allard

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

HOUSE BILL NO. 110

"An Act relating to the Alaska permanent fund; relating to permanent fund dividends and the dividend fund; transferring the dividend program from the Department of Revenue to the Alaska Permanent Fund Corporation; relating to the duties of the Department of Revenue; relating to the duties of the Alaska Permanent Fund Corporation; and providing for an effective date."

- HEARD & HELD

HOUSE JOINT RESOLUTION NO. 7

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

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 110

SHORT TITLE: PERM FUND; XFER DIVIDEND PROG TO APFC

SPONSOR(S): REPRESENTATIVE(S) CARPENTER

03/13/23	(H)	READ THE FIRST TIME - REFERRALS
03/13/23	(H)	W&M, FIN
03/27/23	(H)	W&M AT 6:00 PM DAVIS 106

03/27/23 (H) Scheduled but Not Heard  
03/29/23 (H) W&M AT 6:00 PM DAVIS 106  
03/29/23 (H) Heard & Held  
03/29/23 (H) MINUTE (W&M)  
04/24/23 (H) W&M AT 6:00 PM DAVIS 106

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

**WITNESS REGISTER**

DEVEN MITCHELL, Executive Director  
Alaska Permanent Fund Corporation  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions on HJR 7 and discussed proposed legislation.

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

**POSITION STATEMENT:** Answered questions on HJR 7 and discussed proposed legislation.

**ACTION NARRATIVE**

6:01:15 PM

**CHAIR BEN CARPENTER** called the House Special Committee on Ways and Means meeting to order at 6:01 p.m. Representatives Tilton, McKay, McCabe, Groh, Gray, and Carpenter were present at the call to order. Representative Allard arrived while the meeting was in progress.

**HB 110-PERM FUND; XFER DIVIDEND PROG TO APFC**

[6:02:43 PM](#)

CHAIR CARPENTER announced that the first order of business would be HOUSE BILL NO. 110, "An Act relating to the Alaska permanent fund; relating to permanent fund dividends and the dividend fund; transferring the dividend program from the Department of Revenue to the Alaska Permanent Fund Corporation; relating to the duties of the Department of Revenue; relating to the duties of the Alaska Permanent Fund Corporation; and providing for an effective date."

[6:02:57 PM](#)

CHAIR CARPENTER opened public testimony on HB 110. After ascertaining that there was no one who wished to testify, he closed public testimony.

[6:03:16 PM](#)

CHAIR CARPENTER announced that HB 110 was held over.

**HJR 7-CONST AM: PERMANENT FUND DIVIDEND**

[Contains discussion of HB 110 and HJR 9]

[6:03:29 PM](#)

CHAIR CARPENTER announced that the final 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.

[6:03:35 PM](#)

REPRESENTATIVE MCCABE moved to adopt Amendment 1 to HJR 7, labeled 33-LS0439\B.4, Nauman, 4/21/23, which read as follows:

Page 1, line 1, following "**Alaska**":

Insert "**relating to the permanent fund, relating to transfers out of the permanent fund, and**"

Page 1, line 8, following "**to**":

Insert "**transfers out of the permanent fund and**"

Page 1, line 14, following "**for**":

Insert "transfers out of the permanent fund and"

Page 2, lines 8 - 10:

Delete "[ALL INCOME FROM THE PERMANENT FUND SHALL BE DEPOSITED IN THE GENERAL FUND UNLESS OTHERWISE PROVIDED BY LAW.]"

Insert "All income from the permanent fund shall be deposited in an earnings reserve account in the fund [THE GENERAL FUND UNLESS OTHERWISE PROVIDED BY LAW]."

Page 2, lines 13 - 16:

Delete all material and insert:

"(b) Each fiscal year, without appropriation, the State shall, according to a formula set out in law, pay from the earnings reserve account a dividend to eligible residents of the State. 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 total amount transferred from the earnings reserve account under this subsection shall not exceed the balance of the earnings reserve account or a limitation on the transfer amount set out in law."

Page 2, line 21:

Delete "deposits"

Insert "transfers"

Page 2, following line 21:

Insert a new subsection to read:

"(b) On June 30, 2025, the unencumbered balance of the earnings reserve account established by law shall be deposited in the earnings reserve account established in the Alaska permanent fund."

[6:03:40 PM](#)

REPRESENTATIVE GRAY objected for the purpose of discussion.

[6:04:03 PM](#)

The committee took a brief at-ease.

[6:04:33 PM](#)

CHAIR CARPENTER outlined the changes proposed in Amendment 1.

6:07:07 PM

REPRESENTATIVE GRAY requested an explanation of the intent of the transfers from the Permanent Fund, as addressed in the amendment.

CHAIR CARPENTER stated that line 6 of Amendment 1 addresses Section 7, Article 9 of the Constitution of the State of Alaska. He stated that this is related to transfers out of the Permanent Fund and the payment of dividends.

REPRESENTATIVE GRAY questioned whether the amendment is in reference to making language in HB 110 consistent.

CHAIR CARPENTER responded that HB 110 and HJR 7 are designed to work together. He stated that in 2021 the Fiscal Plan Working Group (FPWG) indicated that numbers should not be put into the constitution, and he provided the example of a percent of market value (POMV) draw. To overcome judiciary objections to the legislature's ability to dedicate funds, he said, HJR 7 addresses this portion of the constitution, and this [would work in conjunction with] HB 110, which would give the legislature the authority to dedicate funds in regard to the earnings from the Permanent Fund. He said the numbers and payments would not be put in the constitution, but only a requirement a payment be made, and from this point the legislature would decide the amounts.

REPRESENTATIVE GRAY, in reference to line 18 of the amendment, pointed out this amount would be determined by a formula set out in law. He expressed the assumption that this amount could be changed, but the formula would have to be followed. He suggested that the voters would not be seeing the formula.

CHAIR CARPENTER responded in the affirmative.

REPRESENTATIVE GRAY expressed the understanding that the language is very general. He questioned what would happen if only the resolution passed without the other legislation.

CHAIR CARPENTER, responding, expressed the belief that either the statute most recently passed or the precedent statute would be used. He suggested there could be a debate on this in the legislature. He continued that companion bill HB 110 would address this issue by removing the 21 percent of net earnings

and replacing this with a 5 percent POMV. He expressed the opinion that this solution has the most support in the legislature.

[6:13:15 PM](#)

REPRESENTATIVE MCCABE reiterated that this is the issue FPWG spoke about. He stated that the proposed legislation would leave no constitutional requirement for dedicated funds, as the expenditure in the constitution would be redefined. He stated that there would be a permanent fund dividend (PFD) of some sort based on the formula in HB 110. From discussions, he expressed the understanding that there has been resistance to putting this in the constitution, and he reminded the committee that it had agreed HJR 7 would be the best way forward.

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REPRESENTATIVE GROH stressed the importance of being clear about what HJR 7 would do. He questioned how the proposed Amendment 1 to HJR 7 would affect the POMV draw and the potential implications of the change on the sustainability of the Permanent Fund.

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DEVEN MITCHELL, Executive Director, Alaska Permanent Fund Corporation (APFC), answered questions on the proposed legislation. He said from APFC's perspective, this would relate to the dedication and distribution of revenue without an appropriation. He continued that the proposed legislation does not have the details to answer the question concerning the sustainability of the fund, as this would hinge on the proposed statutes. He said the trustees have talked about the changes regarding the definition of which income would be deposited in the earnings reserve account (ERA), whether it would be "gap" income or "realized" earnings of the fund. He said that it would be important to establish how money would be transferred into ERA.

REPRESENTATIVE GROH pointed out that the proposed HJR 9 would create a single account structure for the Permanent Fund by combining ERA with the principal. He requested a comparison of the consequences of the passage of HJR 7 with Amendment 1 and HJR 9.

MR. MITCHELL expressed the understanding that, in view of what APFC's trustees have expressed over the years, shifting to a single fund with HJR 9 and using POMV would be more in line with the board's position. He explained that this would remove the angst in context of the importance of having a "fair share" from an intergenerational perspective. He stated that with POMV, the fund would not be overdrawn, as opposed to what is [proposed in HJR 7], where the use would be defined by statute, leaving more questions on how to ensure the durability of the structure within the test of time. He expressed the importance of the idea to "weigh the needs of today against the promise of the folks of tomorrow."

REPRESENTATIVE GROH expressed the understanding that Mr. Mitchell has related that HJR 9 would prevent overdrawing. He requested a description of the effect of the proposed HJR 7, with Amendment 1, as it relates to overdrawing and overspending.

MR. MITCHELL responded that this would depend on the established statutory framework and the fortitude of future legislatures to abide by these statutes. He stated that this would also depend on the definition of "income," as it relates to the proposed bill. He said that if gap income includes the unrealized gains, along with realized income, any particular year could result in a large amount of funds in ERA. He warned that this could lead to future legislatures wanting access to the funds. He expressed the opinion that HJR 9 is more structured, and it would not have the same flexibility. He suggested that this would prevent future legislatures from spending more than the defined POMV transfer.

[6:25:35 PM](#)

CHAIR CARPENTER requested a description of how ERA would move from the general fund (GF) to APFC.

MR. MITCHELL responded that currently ERA is held within the Permanent Fund, and the transfers out of the Permanent Fund go to GF. The amendment would keep ERA within APFC but in a separate, new account, which would be available for appropriations.

CHAIR CARPENTER expressed disagreement, as the intent of Amendment 1 would be to prevent the legislature from appropriating money from ERA. He stated that money could be transferred out, via a statute, but the purpose of the proposed legislation would be to constitutionalize the dedication of

funds, such that an appropriation would not be able to spend from ERA. He argued that with the proposed legislation, the legislature would not be able to spend from ERA.

MR. MITCHELL expressed the understanding that the amendment does not have this level of restriction. He stated that he would review the amendment and provide a follow up. He expressed agreement that, if there is a statutory framework around the fund, it would be more difficult to over expend from the fund. He added that the legislature can currently draw from the money.

CHAIR CARPENTER, for a better understanding, requested that Emily Nauman speak to the effect of the amendment concerning ERA.

[6:29:26 PM](#)

EMILY NAUMAN, Director, Legislative Legal Services, Legislative Affairs Agency, expressed the opinion that the question is whether the proposed legislation would act as a safeguard or restriction against the legislature from overdrawing ERA in any given year.

CHAIR CARPENTER responded in the affirmative.

MS. NAUMAN continued that this amendment would effectuate a transfer from ERA, rather than requiring an appropriation. She stated that the nuance is the transfer would be based on a statute in law; however, the statute could still be changed by a majority vote. In response to a follow-up question, she stated that ERA is now set in statute to be deposited into GF, as specified in the constitution. She said the proposed legislation would clarify in the constitution the current structure which is set out in statute.

[6:32:05 PM](#)

The committee took an at-ease from 6:32 p.m. to 6:36 p.m.

[6:36:19 PM](#)

CHAIR CARPENTER questioned Ms. Nauman about the effect of deleting language from the constitution, in relation to HJR 7, Section 3, but without Amendment 1.

MS. NAUMAN responded that Section 3 and Section 4 of HJR 7 would direct all income from the Permanent Fund go either to GF or to

PFDs. She further explained that under Amendment 1, the income from the Permanent Fund would remain in the fund and be deposited in a new, separate ERA; each year an amount would be pulled out of the new account, and this amount would be limited based on the balance of the account. This amount would pay PFDs or be transferred to GF, according to the new formulas which would be set out in law.

CHAIR CARPENTER questioned, if HJR 7 with the amendment were enacted, whether the legislature would be able to appropriate money out of ERA.

MS. NAUMAN responded in the negative. She explained that each of the movements would happen without a legislative appropriation, but automatically in accordance with the formula in statute. She added that the legislature could change the formula before the transfers happen.

CHAIR CARPENTER questioned the process by which the legislature could change these statutes. For the record, he stated that he would like to compare this with the appropriations process.

MS. NAUMAN stated that the process would be the same as passing a bill. She stated that an appropriation would be one Act combining many things into one bill, whereas an Act to change statutes would have to be a bill limited under the single subject rule in the constitution.

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REPRESENTATIVE GROH requested that both Mr. Mitchell and Ms. Nauman address the following question. He presented the hypothetical that the legislature changed the statute formula of the transfer from ERA to the Permanent Fund, but not the dividend distribution, and as a result the legislature spent the money in ERA in a single year. He questioned whether this would be allowed under the proposed legislation.

MS. NAUMAN responded in the affirmative.

REPRESENTATIVE GROH requested that Mr. Mitchell speak to the question on an operational level.

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MR. MITCHELL responded that this hypothetical would not conform to the board's guidance, as this would not provide for inflation

proofing the fund, so the future generations would have the same benefits. He advised that this would put the fund on a path towards less financial impact, as the purchasing power would decline.

[6:43:43 PM](#)

REPRESENTATIVE GRAY posed the hypothetical that all the other connected legislation passed; however, HJR 7 did not pass by the voters. He questioned whether there would still be a fiscal plan.

CHAIR CARPENTER deferred the question to Ms. Nauman.

[6:44:18 PM](#)

MS. NAUMAN responded that if the voters did not approve HJR 7, then the situation would be status quo, and the legislature could appropriate any amount from ERA in any given year.

CHAIR CARPENTER concurred. He stated that the solution being sought would have some control around the PFD and ERA, without defining the number in the constitution. He said that the legislature is always going to be subject to the ability to change statutes put in place by previous legislatures. He stated that under this circumstance, the appropriations process, or annual budget, has nothing to do with ERA because it is already being taken care of in statute. He added that changing a statute would take place in a policy meeting, but this would have nothing to do with the budget.

[6:45:41 PM](#)

REPRESENTATIVE GRAY expressed the understanding that in the past there had been a financial shortage, and dividends were cut, and this was during the administration under Governor Bill Walker. He continued with the understanding that some people were not happy with this, as dividends have a history of being paid. He deduced that the current approach is attempting to constitutionally make what happened during this time impossible. He questioned whether this is the problem being addressed.

CHAIR CARPENTER responded that some members of the legislature question whether there will be PFDs in the future. He pointed out the limited number of options for revenue and the continued growth of government. He suggested that the growth of government is going to consume all the revenue, and there may be

no money for PFDs. He stated that the conversation concerns how to sustain PFDs and government spending. He argued that because of the dominance of this topic, other subjects do not get addressed by the legislature. He suggested that creating a more stable structure, eliminating this conversation, the budget process can be simplified. He stated that this is the intent behind the proposed legislation.

[6:48:33 PM](#)

REPRESENTATIVE MCCABE opined that this is an example of what happens every year, where the blame is being given to different people and reasons. He argued that the state was not short of money during the Walker Administration, and Governor Walker's veto was the "start of us down this path that we have been on ever since."

[6:49:13 PM](#)

REPRESENTATIVE GROH argued that there was an enormous drop in revenues during the Walker Administration. He noted that there was a veto, but since this time the dividend has become a negotiation process. He concurred with the chair concerning the need for stability to the Permanent Fund, preventing it from being the annual "political football." He added that it is also useful to understand overspending ERA by the legislature. He expressed the understanding that the proposed legislation would still allow a risk of this. He expressed support for working toward PFD stability while protecting ERA.

CHAIR CARPENTER reiterated that there is a way to protect ERA and the PFD, and this would be by putting numbers into the constitution. He continued that there is not a consensus on the right numbers now or for the future. He added that the process for changing the numbers, once they are in the constitution, would be problematic, because a constitutional amendment would be needed. He expressed the belief that there cannot be constitutional certainty because the votes would not be enough; therefore, a compromise needs to be made.

[6:52:10 PM](#)

REPRESENTATIVE GRAY contemplated that if economic growth were to be achieved with a million people living in Alaska, then more funding for government services would be needed. He expressed the understanding that "if the government grows its bad." He expressed the desire to support HJR 7; however, he expressed

uncertainty about HB 110. He expressed the understanding that the language in Amendment 1 seems to only make sense if HB 110 passes. He questioned the effect of HJR 7 if HB 110 does not pass.

CHAIR CARPENTER deferred the question of this conflict to Ms. Nauman.

[6:54:13 PM](#)

MS. NAUMAN expressed the understanding that if HJR 7 passes, but HB 110 does not pass, there would not be an issue. She continued that she would examine the question more closely and follow up to the committee.

CHAIR CARPENTER stated that the intent has always been to provide maximum flexibility by statute outside of the appropriations process, as it relates to the split of the earnings. He stated that HJR 7 would not direct the legislature; therefore, current statute fits within the framework of HJR 7.

[6:55:32 PM](#)

REPRESENTATIVE MCCABE questioned whether a new earnings account would be made under the Permanent Fund, which would be a dedicated fund, even though the constitution does not allow dedicated funds. He expressed the understanding that this is why the constitution would be changed.

MS. NAUMAN responded in the affirmative. She continued that part of the funds would be going into GF, and these funds would not be dedicated for any specific purpose, but because the constitution would require this, the funds "in a way" would be dedicated.

REPRESENTATIVE MCCABE expressed the understanding that if a fund is dedicated to a certain purpose, it would be available to the legislature to fund other services by appropriations.

MS. NAUMAN responded that the fund would be required to be used in accordance with the constitution, whether Amendment 1 passes or not.

REPRESENTATIVE MCCABE, repeating Representative Groh's question, asked whether the legislature would be able to use the funds if they are needed.

MS. NAUMAN responded that the legislature could "tinker" with the formula for the amount going to GF and to PFDs in such a way the money could be used for any purpose the legislature desires.

REPRESENTATIVE MCCABE stated that for this to happen another statute would need to be passed, as a modification to HB 110.

MS. NAUMAN responded in the affirmative.

[6:58:23 PM](#)

REPRESENTATIVE GROH pointed out that the constitution restricts initiative power which could dedicate revenues. He asked, per the proposed legislation, whether the voters, by an initiative, could change the statute and create an "excessively large liability for the state." He continued by asking whether the voters could make changes with an initiative to the statutory language provided in the proposed legislation.

MS. NAUMAN responded that this creates an interesting question. She continued that because the Alaska Supreme Court has not addressed this, there is no answer. She expressed the opinion that an initiative would not change the statutes; however, she requested that she be able to follow up to the committee with an answer. She warned that any answer to this question would still contain uncertainty.

[7:00:53 PM](#)

REPRESENTATIVE GRAY withdrew his objection to Amendment 1.

[7:01:05 PM](#)

REPRESENTATIVE GROH objected. He expressed concern about the risk of the legislature overdrawing the fund. He moved Conceptual Amendment 1 to Amendment 1 to HJR 7. He stated that the conceptual amendment would provide a provision which would limit a total withdraw from ERA, whether through an appropriation or non-appropriation, and this would include that the payment of dividends would not exceed a specific POMV amount of the fund.

[7:02:39 PM](#)

REPRESENTATIVE MCCABE objected.

[7:02:56 PM](#)

The committee took an at-ease from 7:02 p.m. to 7:10 p.m.

[7:10:13 PM](#)

CHAIR CARPENTER stated there is a conceptual amendment to the proposed legislation which would amend the state constitution.

REPRESENTATIVE GROH, speaking to Conceptual Amendment 1 to Amendment 1, stated that it would be to provide additional protection as it relates to transfers out of ERA. He explained that the total amount withdrawn shall not go over POMV, as determined by statute. He stated that this would protect against the risk of overdrawing from ERA.

CHAIR CARPENTER ruled that Conceptual Amendment 1 to Amendment 1 to HJR 7 was out of order. He pointed out that the conceptual amendment does not address anything related to Amendment 1; moreover, it would be the introduction of a new subject. He advised that it would need to be drafted as a second amendment to HJR 7; however, the deadline for this has passed.

REPRESENTATIVE GROH maintained his objection to Amendment 1 to HJR 7.

[7:12:07 PM](#)

A roll call vote was taken. Representatives Allard, McKay, McCabe, Gray, Tilton, and Carpenter voted in favor of Amendment 1 to HJR 7. Representative Groh voted against it. Therefore, Amendment 1 was adopted by a vote of 6-1.

[7:13:01 PM](#)

CHAIR CARPENTER announced that HJR 7, as amended, was held over.

[7:13:24 PM](#)

#### **ADJOURNMENT**

There being no further business before the committee, the House Special Committee on Ways and Means meeting was adjourned at 7:13 p.m.