

# **A Brief History, Legal Status, and Uses of the Permanent Fund’s Principal and the Permanent Fund Earnings Reserve Account**

by Cliff Groh

## **Creation of Permanent Fund**

The Alaska Permanent Fund was created in 1976 by a constitutional amendment put on the ballot by the Alaska Legislature and approved by the voters.

This amendment to the Alaska Constitution—Article IX, Section 15—requires that at least 25 percent of all royalties, royalty sale proceeds, mineral lease rentals, federal mineral revenue sharing payments, and bonuses received by the State of Alaska be placed automatically in the Permanent Fund.

## **Different Legal Statuses of Permanent Fund Principal and Permanent Fund Income/Earnings**

The constitutional amendment provides that the principal of the Permanent Fund “shall be used only for those income-producing investments specifically designated by law as eligible” for investments by the Permanent Fund. That principal of the Permanent Fund is not subject to appropriation by the Alaska Legislature—that is, it cannot be spent—absent another constitutional amendment.

The constitutional amendment provides that “All income from the [P]ermanent [F]und shall be deposited in the [G]eneral [F]und unless otherwise provided by law.” Unlike the Permanent Fund’s principal (also called the corpus), the Permanent Fund’s income—or earnings—can be (and has been) spent by the Alaska Legislature.

State statutes adopted by the Legislature—also called “state law” or simply “law”—provide that the income generated by the Permanent Fund shall be

deposited into the Permanent Fund Earnings Reserve Account. (Alaska Statute 37.13.145(a).) The Permanent Fund Earnings Reserve Account is thus—unlike the Permanent Fund principal—a creature of statute.

## **Uses of Permanent Fund Income/Earnings**

Uses of Permanent Fund earnings have changed over time, and the statutes currently conflict on how they should be used going forward.

Starting in the 1980s after Permanent Fund Dividends were first paid in 1982, Permanent Fund earnings went either to pay Dividends or to go back into the Permanent Fund principal as inflation-proofing to maintain the principal's purchasing power, with a much smaller amount going to pay for some of the State's functions related to Dividends. This allocation was pursuant to the Dividend formula enacted in statutes by the Legislature in the 1980s, with the final change occurring in 1986. The statutes setting out the Dividend formula provide that the pool of money from which Dividends are paid consists of 50 percent of the "income available for distribution," defined as 21 percent of the Permanent Fund's net income for the last five fiscal years. (Alaska Statute 13.37.145(b); Alaska Statute 13.37.140(a).)

The Legislature adopted in 2018 a quite different formula—called the Percent of Market Value ("POMV") system—that constitutes a conceptual change to the State of Alaska's fiscal system. Before 2018, the only uses for the Permanent Fund's earnings in significant amounts were to pay Dividends and inflation-proof the Permanent Fund principal. The statutes bringing in POMV in 2018, on the other hand, established a new fiscal system in which for the first time the State of Alaska began the heavy use of Permanent Fund earnings to pay for conventional public services such as schools, roads, and Troopers IN ADDITION TO paying for Dividends.

Under the POMV system, the Alaska Permanent Fund Corporation determines annually the "amount available for appropriation," defined as 5.25 percent of the Permanent Fund's average market value for the first five of the preceding six fiscal years. (Alaska Statute 13.37.140(b).) (As of July 1, 2021, that 5.25 percent goes to 5 percent.) (Alaska Statute 13.37.140(b).)

The statutes creating POMV state that the Legislature may not appropriate from the Permanent Fund's earnings an amount for public services that exceeds the "amount available for appropriation" in a fiscal year. (Alaska Statute 13.37.145(e).) The POMV statutes also provide—critically—that the 5.25 percent (and later, 5 percent) is supposed to cover the Permanent Fund's earnings' contribution to the conventional budget PLUS pay for the Dividend. (Alaska Statute 13.37.145(f).)