

**ALASKA STATE LEGISLATURE
HOUSE STATE AFFAIRS STANDING COMMITTEE**

January 22, 2004
8:00 a.m.

MEMBERS PRESENT

Representative Bruce Weyhrauch, Chair
Representative Bob Lynn
Representative Paul Seaton
Representative Max Gruenberg

MEMBERS ABSENT

Representative Jim Holm, Vice Chair
Representative John Coghill
Representative Ethan Berkowitz

OTHER LEGISLATORS PRESENT

Representative Harry Crawford

COMMITTEE CALENDAR

HOUSE JOINT RESOLUTION NO. 30

Relating to supporting the repeal of the Government Pension Offset and the Windfall Elimination Provisions from the Social Security Act.

- MOVED CSHJR 30(STA) OUT OF COMMITTEE

HOUSE JOINT RESOLUTION NO. 3

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

- HEARD AND HELD

HOUSE BILL NO. 350

"An Act relating to adding personal injury, death, and property damage from arson in the first degree to the offenses compensable by the Violent Crimes Compensation Board."

- SCHEDULED BUT NOT HEARD

PREVIOUS ACTION

BILL: HJR 30

SHORT TITLE: ELIMINATE SOCIAL SECURITY OFFSET
SPONSOR(S): REPRESENTATIVE(S) GATTO

05/19/03 (H) READ THE FIRST TIME - REFERRALS
05/19/03 (H) STA
01/22/04 (H) STA AT 8:00 AM CAPITOL 102

BILL: HJR 3

SHORT TITLE: CONST. AM: PERMANENT FUND
SPONSOR(S): REPRESENTATIVE(S) CRAWFORD, CROFT

01/21/03 (H) PREFILE RELEASED (1/10/03)
01/21/03 (H) READ THE FIRST TIME - REFERRALS
01/21/03 (H) STA, JUD, FIN
02/07/03 (H) SPONSOR SUBSTITUTE INTRODUCED
02/07/03 (H) READ THE FIRST TIME - REFERRALS
02/07/03 (H) STA, JUD, FIN
01/13/04 (H) STA AT 8:00 AM CAPITOL 102
01/13/04 (H) Heard & Held
01/13/04 (H) MINUTE(STA)
01/22/04 (H) STA AT 8:00 AM CAPITOL 102

WITNESS REGISTER

REPRESENTATIVE CARL GATTO
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Testified as sponsor of HJR 30.

JERRY PATTERSON
Juneau, Alaska
POSITION STATEMENT: Testified on behalf of NEA-Alaska Retired during the hearing on HJR 30.

MARIE DARLIN
Juneau, Alaska
POSITION STATEMENT: Testified on behalf of the Alaska Federation for the National Association of Retired Federal Employees (NARFE) in support of HJR 30.

ROGER GAY
Big Lake, Alaska
POSITION STATEMENT: Testified in opposition to HJR 3.

REPRESENTATIVE ERIC CROFT
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: As co-sponsor, expressed his wish for HJR 3 to move through committee as fast as possible.

ACTION NARRATIVE

TAPE 03-06, SIDE A

Number 0001

CHAIR BRUCE WEYHRAUCH called the House State Affairs Standing Committee meeting to order at 8:00 a.m. Representatives Seaton, Lynn, Gruenberg, and Weyhrauch were present at the call to order.

HJR 30-ELIMINATE SOCIAL SECURITY OFFSET

Number 0180

CHAIR WEYHRAUCH announced that the first order of business was HOUSE JOINT RESOLUTION NO. 30, Relating to supporting the repeal of the Government Pension Offset and the Windfall Elimination Provisions from the Social Security Act.

CHAIR WEYHRAUCH requested a motion be made to move HJR 30 "for discussion purposes."

Number 0219

REPRESENTATIVE LYNN said, "I so move, Mr. Chair."

CHAIR WEYHRAUCH clarified that the bill before the committee was HJR 30 [the original bill Version] 23-LS1113\A.

Number 0279

REPRESENTATIVE CARL GATTO, Alaska State Legislature, as sponsor, told the committee that [addressing this issue] is sort of like "doing your taxes." Although there are many numbers and details involved, "it boils down to something fairly easy."

REPRESENTATIVE GATTO paraphrased the first paragraph from his sponsor statement as follows:

There are those Alaskans who, whether retired or nearing retirement, ... are examining the issues of income in retirement and measuring it against expenses. Generally retirees consider two major sources of retirement income: pensions and social

security. Added together, retirement becomes a better alternative to continuing on the job, especially when the job was a long career in public service. Nonetheless, there are a pair of flies in the ointment, and very large ones. They are two federal social security requirements that effectively say that if you receive a pension, the social security you have come to believe you deserve is reduced and, in most cases, eliminated. The effect is that spouses or surviving members are being unreasonably penalized because they earned a pension.

REPRESENTATIVE GATTO explained that when people are ready to retire, they assume that they have paid into social security for a long time. He said people have always heard that social security may not be there for people 20 years from now. He added, "Well, it may not be there for you today, either." He continued as follows:

But, if you have planned on it and used it as a calculation to determine your livability in the future and your standard of living, you took it as a number that you received from the social security office. You then looked at your employer, which might be the State of Alaska, which might be a ferry worker, or it could be someone in this building, and you can get a calculation of your benefit. You add the two together and you say, "Should I retire, or not. Well, maybe I should retire in the year 2005, in March." And you plan on that.

Social security though has ... a little fly in the ointment. And that: they're broke, or nearly broke. And what they have done in the past is make some provisions to help them. And that is, they say, "Hey, if you have a retirement plan, maybe we can get out of paying you social security." That's really the core of the entire issue - a way for social security to get out of paying.

Number 0544

They have two provisions: One is the social security offset. And initially, they would simply say, "If you're getting \$3,000 a month in a pension and we owe you \$1,000 a month in social security, we don't owe you anything, because you're already getting \$3,000

and we only promised you would get \$1,000, so we don't have to give it to you." That got pretty bad, so they decided, "Well, that's pretty severe." A few years of complaints and they decided, "Maybe we ought to make it only 60 percent." And then it goes on from there and that's where it is.

The other one is a windfall offset. And they think you're pension is a windfall, and so have managed to make more deductions against that, so that ultimately they don't pay anything. Most of us, if we're [a] government worker, will not get any social security, if you're retiring at this point.

REPRESENTATIVE GATTO said he retired about four years ago from the fire department, which is a government organization. He said, "You're supposed to pay 40 quarters." He revealed that he had paid "50-something quarters," but social security thought he didn't pay enough. He reported that he thinks he gets "a hundred-and-something dollars" now in social security after "paying in for 50 quarters." He remarked that this doesn't affect him as much as other people who won't even get the \$111 dollars a month; they'll get considerably less.

Number 0702

REPRESENTATIVE GATTO said this is a national issue, which is the reason for a resolution to speak to [Alaska's] representatives and senators in Washington, D.C., who will the join a large group of other states to address this issue.

Number 0737

CHAIR WEYHRAUCH remarked that this whole matter "smacks of ... an interment of contract," where people thought they had something coming and the government is saying they don't. He asked if there have been any case law regarding this issue.

REPRESENTATIVE GATTO responded, "How many of us have ever tried to sue the federal government?" He stated that there are a lot of repercussions "here" for public services workers. If someone is getting social security as a teacher in Oregon, for example, and he or she wants to come up [to Alaska], "the benefit [he or she has learned to expect can go away." He noted that there are teachers "here" who had a previous job, in [an industry outside of teaching]. He said, "In order to keep that, they have to quit their job here and go somewhere else and continue

teaching." He said he used the example of teachers because, to some degree, [the state] is having trouble recruiting teachers. He indicated that teachers get a penalty for coming up to Alaska to teach. He added that this concern does not just apply to teachers, but to anybody who has received a "government retirement."

Number 0869

REPRESENTATIVE LYNN noted that, as a retired public school teacher himself, he is a victim of "this very thing." He suggested that the resolution also be sent to President Bush.

REPRESENTATIVE GATTO responded, "We can."

CHAIR WEYHRAUCH suggested Tommy Thompson, [Secretary of Health and Human Services for the U.S. Department of Health and Human Services], as well as President Bush. He asked Representative Gatto if he would mind if the committee added [those two names to the resolution].

Number 0960

REPRESENTATIVE GATTO indicated that [HJR 30 is a] very friendly [resolution]. [The addition of Tommy Thompson and President Bush was treated as a friendly amendment to HJR 30.]

Number 0965

REPRESENTATIVE SEATON asked, "Is this off-set any different [from] the off-set for income?" He asked if the problem is that retirement proceeds are being considered as income. He gave an example whereby a person has another source of income "that equals the \$3,000" [in a previously stated example]. He asked if that would be the same offset.

REPRESENTATIVE GATTO replied that that is a good question.

CHAIR WEYHRAUCH stated that the committee would get other testimony regarding that [question].

REPRESENTATIVE SEATON turned to a page [included in the committee packet] that shows the states in which public employees are not covered by social security, and he noted that Alaska is one of those states. He recalled a time when he lived in Seward and public employees voted not to be covered by social security; therefore they haven't been paying into social

security. He added, "You know, that was the time where you had to opt in or opt out." He asked for confirmation that the intent of the proposed resolution is not to say, "Okay, we haven't been paying into social security at all, but now we want to be covered," but rather to say, "If you had not opted out of social security, then you shouldn't receive the deduction."

REPRESENTATIVE GATTO answered that he believes Representative Seaton is correct. He noted that when he worked for the fire department, he received a letter one day that said, "Do you want in or out?" He related that his response was, "You must be kidding. I'm out." He noted that when working as a kid in a grocery store, he didn't "pay that much in," and social security rates were low; therefore, he said, "I don't feel terrible about this." Conversely, he said, there are any number of people who have been paying in considerably more and feel like, "I'm paying in, I get something back." He added that what they are getting back is nil.

REPRESENTATIVE SEATON said he knows that one of the things that has plagued social security is the reduction in the number of people who currently are working [compared to the number of] retirees. He stated that he wants to ensure that the intent of the resolution is not to include people who opted out of social security payment and are asking that they be covered, but solely to cover those people who "paid in."

REPRESENTATIVE GATTO answered, "Right." He clarified that the people who opted out did pay something in or there wouldn't be anything to opt out of; therefore, they have some investment. But, he explained, the social security administration uses what they paid in to do some of the calculations of what they could - emphasis on the word "could" - earn. That administration then "applies these deductions to what they could have earned from social security."

REPRESENTATIVE SEATON stated that he just wants it on the record that [the resolution] is not trying to expand social security payouts for people who had been in public service, where the job had been opted out and they "might not have ever paid anything in."

Number 1237

CHAIR WEYHRAUCH, for the public's benefit, explained that [HJR 30] is a resolution asking Congress to take action; there is

nothing in the resolution that could bind the state or amend state statute.

Number 1290

JERRY PATTERSON, testifying on behalf of NEA-Alaska Retired, told the committee that he taught in the Lower 48 and had social security credits from all that time, including having worked through summer. He noted that he worked after retirement, here in Alaska. Social Security, in its last statement, informed him that he earned a \$400 benefit, of which he will receive \$160. That means [his benefit] will be reduced by 60 percent, solely for the reason that he worked as a teacher in Alaska and the teacher's retirement system (TRS) does not pay into social security.

MR. PATTERSON noted that he has a teacher friend in Juneau whose husband worked as an accountant in the private sector. Her husband paid into social security for 44 years, passed away a couple of years ago, and because she's a teacher, she will not receive any spousal benefit. He added, "It will be offset against any spousal benefit that she would receive by two-thirds of her teacher's retirement." He stated that that happens to approximately 90 percent of spouses nationwide.

Number 1400

CHAIR WEYHRAUCH asked, "Did this occur with the social security administration in the off-set because of the status of the social security funds? And is it a recent creature - of let's say the past 10 years - that Congress enacted?"

MR. PATTERSON answered as follows:

This was enacted in 1983, and it was at a time when they were concerned about [the] funding status of social security. And they, essentially, went after public employees as a sector, (indisc.) in states that were not participating. In all cases, we have paid the money; it's not like ... we're asking for something we haven't paid for. In fact, we're carried on the books for social security. In all their estimates, we're carried on the books as 100 percent. But when we go to collect, we get 40 cents on the dollar. Or, in the case of a spouse, you get zero cents on the dollar, in nine out of ten cases. So, the penalty is quite severe.

CHAIR WEYHRAUCH asked, "This doesn't affect, say, people who are in the military and then work for another branch or another state; they still get their military over and above their other pensions, right?"

Number 1500

MR. PATTERSON answered, yes; the military would get any other pension. However, he mentioned that there is a National Troops to Teachers program, and if [military personnel] were to come teach in Alaska, they would have a portion of their social security reduced. He said the same is true of someone who is earning social security in the private sector, comes to work for the state as a computer analyst, and gets vested, for example. He explained, "You only have to become vested to be penalized." He stated that this penalty is becoming much more widespread and people are becoming much more knowledgeable about it.

REPRESENTATIVE GATTO asked for the record if getting vested means 8 years.

MR. PATTERSON answered that eight years is how long it takes for a teacher to get vested. He offered his understanding that a public employee gets vested in five years.

REPRESENTATIVE GATTO asked, "And so we're encouraging people, before they reach that year, to quit and go somewhere else. Is that correct?"

MR. PATTERSON indicated he is aware of three teachers that have left Alaska because of their social security penalties.

Number 1558

REPRESENTATIVE SEATON asked if this penalty also would apply to railroad workers who pay into a separate system of retirement.

MR. PATTERSON answered that he is not certain if this affects railroad [workers'] retirement. He said, "All I'm familiar with is the social security side."

REPRESENTATIVE SEATON said he is trying to figure out the rationale behind this, and he asked if the following is correct:

It seems like what they're saying is that if you are in a state and you opt out of paying into social

security - which we have done ... -- so all those accumulated payments that are going along, when that generates income in retirement, then that income - because it wasn't coming through the social security system - is going to be counted just ... as if you had been contributing to social security and you're receiving that benefit. And then they pay only the portion of your other benefit that would bring that up to your amount.

MR. PATTERSON interpreted, "What they're saying is, you've got a retirement from a noncontributor and that's good enough, and we're going to penalize you on the other; we don't want you to get rich."

MR. PATTERSON noted that 283 representatives and 20 senators, including U.S. Senator Lisa Murkowski, have signed on the proposed resolution. He told the committee that Representative Young's aide indicated that U.S. Representative Young would vote for [the resolution] on the floor, although he has not signed on. Mr. Patterson also noted that U.S. Senator Steven's aide had told him that Senator Stevens is sympathetic, but had made a comment in regard to the cost. Mr. Patterson noted that the cost would be \$50 billion over 10 years. That \$50 billion has already been accounted for; therefore, it would not change the projections on social security if it was paid out. He said [Senator Steven's] is waiting until "after the election" to see if the issue is dealt with [during possible] overhaul of the social security system.

CHAIR WEYHRAUCH said, "They continue to talk of overhaul of the social security system."

Number 1720

REPRESENTATIVE GRUENBERG, taking the devil's advocate position - because he said that's what "they" will be taking in Washington, D.C. - stated that the reason this is happening is because the federal budget is "so out of whack." He said [the federal government] is trying to find money anywhere it can, and "they come out of your pocket." He said the same kind of issue is going on at the state level "here, in other areas." All levels of government, he said, are having difficulty trying to finance the war in Iraq and have "a bunch of tax deductions." He added, "And you are the people who are paying, as a result of them taking the money out of the social security." He stated that it's important that the people testifying on this [resolution]

really understand what the political problem is back in Washington, D.C. To get the money back in the social security system the unbalanced federal budget will have to be addressed.

Number 1820

MARIE DARLIN, testifying on behalf of the Alaska Federation for the National Association of Retired Federal Employees (NARFE), noted that as of October of 2002, there are 6,636 surviving annuitants in Alaska. About 1,500 of those are actually members of a NARFE chapter, of which there are five in Alaska.

MS. DARLIN said this issue is a complicated one. She continued as follows:

This started, actually, with a government pension offset in 1977, although that did not go into effect until 1982.

She said NARFE has been working for years to get Congress to repeal these pension offsets. [The offsets] are intended to reduce the social security annuities of anyone who also receives a federal or state government annuity. She stated that this is unfair, because these social security payments were made by these workers, wherever it was that they worked while covered by social security. She stated that the government pension offset (GPO) reduces or eliminates the social security benefit from the spouse's social security. Some people can "get hit two different ways," she added. The windfall elimination provision reduces a person's own earned benefit, by using a formula that can result in a loss of as much as 60 percent of their social security, "just because their career was as a government employee of some type." She added, "Again, they also paid into that fund for social security benefits and then [found] they don't have them."

MS. DARLIN said that many government pensions are not that much [money], for example, when a person worked in a lower-paying position for less than the full 20 or 30 years. Many times, she said, those most affected by these offsets are low-income widows. She stated, "These off-sets affect thousands ... of not only federal retirees, but state municipal workers, as well as teachers and school district employees, just as you've heard."

MS. DARLIN urged the committee's support of HJR 30, to show Congress that the states are also concerned about their

retirees. She offered "back-up" information [included in the committee packet].

Number 2015

REPRESENTATIVE GRUENBERG suggested that language be crafted to ask the federal government to look at other ways of adjusting its budget, "rather than on the backs of social security." He explained that he is trying to get at the root of the problem in a positive way by showing that "we" recognize "what's causing this."

Number 2082

REPRESENTATIVE LYNN opined that what Representative Gruenberg is suggesting "goes outside" [the intent of the resolution]. Other than the addition of the names previously suggested, he said he thinks the resolution should "go as is."

Number 2100

REPRESENTATIVE SEATON stated that he would vote [HJR 30] out of committee; however, he said he thinks the problem is not so much social security as it is that the total pool of people paying into social security has been reduced by opt out provisions. He said that government employees and railroad [employees] were the only people who were given the option to opt out of social security, and they did, because they "saw a better road." He stated that he doesn't think "we" want to identify the problem as being the federal budget so much as it is in regard to when the opt out system was [enacted].

Number 2190

REPRESENTATIVE GRUENBERG said he would not want to offer that suggestion as an amendment unless everyone was in favor of it.

Number 2211

REPRESENTATIVE LYNN moved to report HJR 30, as amended, out of committee with individual recommendations and the accompanying fiscal note. There being no objection, CSHJR 30(STA) was reported out of the House State Affairs Standing Committee.

HJR 3-CONST. AM: PERMANENT FUND

Number 2323

CHAIR WEYHRAUCH announced that the last order of business was HOUSE JOINT RESOLUTION NO. 3, Proposing amendments to the Constitution of the State of Alaska relating to the Alaska permanent fund.

CHAIR WEYHRAUCH opened public testimony.

Number 2370

ROGER GAY told the committee that he is from Big Lake, Alaska. He stated his objection to the legislature and governor "always trying to set their sights on the permanent fund." He stated his belief that the state has assets that it refused to use to pay its bills. While the state owns practically all of the coal, zinc, lead, timber, gold, oil, gas, and land, he said, "you" depict the state as being poor. He suggested the state sell some of its land, dig up some of its gold, or drill for its own oil. The state should make its own money, he opined. Mr. Gay said the people [of Alaska] own less than one percent of "what's up here." He added, "And of the land we allegedly own, we only control the surface rights, and we pay taxes on that." He stated that the state has had plenty of time to have "forward funded" the government, but has failed to do so. He said, "And now you want to reach into my pocket instead of your own." He opined that [the legislature's] duty is to defend the constitution, including Article 9, Section 15; and when it tries to change the constitution it is not protecting and defending it.

CHAIR WEYHRAUCH noted that [HJR 3] would change the constitution. He asked Mr. Gay if he is testifying in opposition to the resolution.

MR. GAY responded that he is opposed to HJR 3. He stated that he thinks [the legislature] has been irresponsible in not properly conducting its financial affairs. He reiterated that he thinks the legislature should not use the permanent fund to solve its fiscal problems, because people need the money to pay for their food and medical bills. He said, "The state is not a living entity and the people of the state are." He suggested that [the legislature] could sell enough land to forward fund its bills for a year, and then "you'd be ahead of the curve." He indicated this step should be taken before taking money from the people of the state. He said, "You've got lots of money, and you're just not looking at it, you're looking at that permanent fund."

Number 2548

REPRESENTATIVE SEATON noted that the state has been trying to give incentives to increase development in the state. He said there are five major world-class mines that "might come on line." He added that [due to the cost of getting] those mines going, and [because of] the way the tax structure is, basically, the state will receive no money from those mines. He asked Mr. Gay if he is suggesting that the legislature redo the tax structure on those kinds of developments so that the state garners significant quantities of money to pay its bills from that development, even if it would stop that development and those jobs from going forward.

Number 2602

MR. GAY replied, "You own the land and you own the resources, and if you wanted to, you could develop them yourselves and make money." He gave the example of the gas pipeline. He said [the state] could build and own the gas pipeline if it wanted to. He listed state investments, such as the Delta barley project, the grain mill in Seward, and the farms out on Point Mackenzie, and he said, "They're not good." However, as far as the state's land holdings, he suggested that the state divest itself of those by giving them to local governments who would in turn be encouraged to sell those to the people to gain revenue through the taxes that the people would pay on the land. Instead, he said, [the state] is just holding on to that land and claiming that it's broke.

Number 2637

REPRESENTATIVE SEATON continued his line of questioning as follows:

So then, your testimony would be that you would favor the state, as a state itself, developing those mines, and also probably using the permanent fund to finance and construct the gasoline.

MR. GAY replied, "If those are appropriate uses of the permanent fund investments, then I would say yes." He opined, "The permanent fund should invest its money in Alaskan projects that benefit Alaska, instead of sending the money to New York bankers."

Number 2696

CHAIR WEYHRAUCH stated that, based on all the amount of e-mails he received on this issue, he is shocked that there aren't more people who want to testify on this resolution. He expressed his reluctance to close public participation; therefore, he said he would not close it at this time. He also said he wants to give the resolution the benefit of the full committee.

Number 2743

REPRESENTATIVE ERIC CROFT, Alaska State Legislature, as co-sponsor of HJR 3, in response to a question by Chair Weyhrauch, said he and co-sponsor Representative Harry Crawford would like to see the resolution move forward to the House Judiciary Standing Committee and do so as quickly as possible.

[HJR 3 was heard and held.]

ADJOURNMENT

Number 2772

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 8:42 a.m.