

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

March 7, 2017

3:32 p.m.

**MEMBERS PRESENT**

Senator Mike Dunleavy, Chair  
Senator David Wilson  
Senator Cathy Giessel  
Senator John Coghill  
Senator Dennis Egan

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

**SENATE JOINT RESOLUTION NO. 1**

Proposing amendments to the Constitution of the State of Alaska relating to the Alaska permanent fund, establishing the earnings reserve account, and relating to the permanent fund dividend.

- MOVED SJR 1 OUT OF COMMITTEE

**SENATE CONCURRENT RESOLUTION NO. 1**

Proposing an amendment to the Uniform Rules of the Alaska State Legislature relating to voting procedure and abstention from voting.

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: SJR 1

SHORT TITLE: CONST AM: GUARANTEE PERM FUND DIVIDEND

SPONSOR(S): SENATOR(S) WIELECHOWSKI

01/09/17	(S)	PREFILE RELEASED 1/9/17
01/18/17	(S)	READ THE FIRST TIME - REFERRALS
01/18/17	(S)	STA, JUD, FIN
02/09/17	(S)	STA AT 3:30 PM BUTROVICH 205
02/09/17	(S)	Heard & Held
02/09/17	(S)	MINUTE(STA)

03/07/17 (S) STA AT 3:30 PM BUTROVICH 205

BILL: SCR 1

SHORT TITLE: UNIFORM RULES: ABSTAIN FROM VOTING

SPONSOR(s): SENATOR(s) GARDNER

02/01/17 (S) READ THE FIRST TIME - REFERRALS

02/01/17 (S) STA, JUD

03/07/17 (S) STA AT 3:30 PM BUTROVICH 205

**WITNESS REGISTER**

SENATOR BILL WIELECHOWSKI

Alaska State Legislature

Juneau, Alaska

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

CLEM TILLION, representing self

Halibut Cove, Alaska

**POSITION STATEMENT:** Testified in support of SJR 1.

JANEL DOCKENDORF, representing self

Wasilla, Alaska

**POSITION STATEMENT:** Testified in support of SJR 1.

JAMES SQUYRES, representing self

Deltana, Alaska

**POSITION STATEMENT:** Testified in support of SJR 1.

JULIET STOESSEL, representing self

Tok, Alaska

**POSITION STATEMENT:** Testified in support of SJR 1.

NORMAN EGOLF, representing self

Tok, Alaska

**POSITION STATEMENT:** Testified in support of SJR 1.

PEGGY CLEVINGER, representing self

Tok, Alaska

**POSITION STATEMENT:** Testified in support of SJR 1.

JACK CLEVINGER, representing self

Tok, Alaska

**POSITION STATEMENT:** Testified in support of SJR 1.

DAVID RICHARD LUNTZ, representing self

Delta Junction, Alaska

**POSITION STATEMENT:** Testified in support of SJR 1.

JON FAULKNER, representing self  
Homer, Alaska

**POSITION STATEMENT:** Testified in support of SJR 1.

DAVID OTNESS, representing self  
Cordova, Alaska

**POSITION STATEMENT:** Testified in support of SJR 1.

BETH FREAD, representing self  
Palmer, Alaska

**POSITION STATEMENT:** Testified in support of SJR 1.

PAM GOODE, representing self  
Deltana, Alaska

**POSITION STATEMENT:** Testified in support of SJR 1.

KAREN TERRY, representing self  
Chugiak, Alaska

**POSITION STATEMENT:** Testified in support of SJR 1.

STEVE ST. CLAIR, representing self  
Wasilla, Alaska

**POSITION STATEMENT:** Testified in opposition of SJR 1.

KENNETH MCLEOD, representing self  
North Pole, Alaska

**POSITION STATEMENT:** Testified in support of SJR 1.

KURT SCHMIDT, representing self  
Delta Junction, Alaska

**POSITION STATEMENT:** Testified in support of SJR 1.

SENATOR BERTA GARDNER  
Alaska State Legislature  
Juneau, Alaska

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

JERRY ANDERSON, Administrator  
The Select Committee on Legislative Ethics  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Commented on SCR 1.

SAMANTHA HARRIS, Staff  
Senator Gardner

Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Provided an overview of SCR 1.

**ACTION NARRATIVE**

[3:32:23 PM](#)

**CHAIR MIKE DUNLEAVY** called the Senate State Affairs Standing Committee meeting to order at 3:32 p.m. Present at the call to order were Senators Egan, Giessel, Coghill, Wilson, and Chair Dunleavy.

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

[3:32:53 PM](#)

CHAIR DUNLEAVY announced the consideration of SJR 1.

[3:33:16 PM](#)

SENATOR BILL WIELECHOWSKI, Alaska State Legislature, Juneau, Alaska, sponsor of SJR 1, said the resolution would put before the Alaska voters an amendment to Article IX, Section 15 of the Alaska Constitution to do the following:

1. Place the current formula for calculating the Permanent Fund Dividend (PFD) into the constitution.
2. Require that there be inflation proofing.

SENATOR COGHILL addressed inflation proofing and pointed out that Senator Wielechowski would leave it up to a "matter of law." He referenced Section 2(c), "The Legislature shall provide by law for a transfer from the earnings reserve account of the fund sufficient to offset the effect of inflation on the principal of the fund during that fiscal year." He asked Senator Wielechowski if he considered tying inflation proofing to the Consumer Price Index (CPI).

SENATOR WIELECHOWSKI replied that his original intent was to put the statute's exact language into the constitution. He disclosed that Legislative Legal said using the exact language was a lot to add to the constitution and recommended that the statute's exact language not be used. He opined that if the legislation passes and voters approve it, then the existing statute would still control, and the Legislature could change that at any time, just like what the Legislature can do now.

SENATOR COGHILL commented that putting SJR 1 into the constitution and using the earnings reserve for government would have an impact on the dividend. He asked Senator Wielechowski to address the resolution's impact on the dividend and its "constitutional right balance."

[3:35:54 PM](#)

SENATOR WIELECHOWSKI replied that all the resolution does is put the dividend formula into the constitution. He pointed out that the PFD is currently considered a right in statute. He admitted that stating a right statutorily does not confer the same degree of right as a constitutional situation would. He reiterated that the resolution is not declaring a right, but rather it is declaring the formula is set in the constitution and the inflation proofing is set in the constitution. He opined that the resolution does not change the legal status, but makes it more of a right to substantive procedural due process; that's what typically occurs in a constitutional right that is established is more of an ability to claim a legal due process, a procedural due process. He specified that what is gained is just putting the dividend formula into the constitution. He emphasized that his intent is not to confer anyone an additional right.

He pointed out that the statute currently says there is a legal obligation for the Permanent Fund Corporation to transfer funds from the earnings reserve to the dividend fund, something that he believes is illegal and is currently being contested in judiciary. He remarked that the statutory dedication that the Legislature set up would confer a similar right that currently exists. He summarized that his intent was to put the current statutes into the constitution and not change anyone's rights, but to simply codify it in the constitution so that people know that they are going to get their PFD every year without it being vetoed.

He opined that if the Legislature passes a permanent fund restructuring with a guarantee for a PFD, the dividend cannot be guaranteed unless it is put into the constitution. He asserted that putting the guarantee into the constitution will engender trust by the people of Alaska and a fair tradeoff for restructuring the permanent fund.

SENATOR COGHILL replied that many of Senator Wielechowski's points were legitimate, but sees the resolution as creating other structural problems.

[3:39:45 PM](#)

CHAIR DUNLEAVY opened public testimony on SJR 1.

[3:40:09 PM](#)

CLEM TILLION, representing self, Halibut Cove, Alaska, testified in support of SJR 1. He asked that the Legislature not change anything and obey the law as it is written. He pointed out that the Alaska Permanent Fund Corporation is statutorily required to take out inflation proofing before approving 50 percent of the earnings to be sent to the Department of Revenue. He opined that changing the law makes the permanent fund more vulnerable to destruction.

[3:42:33 PM](#)

SENATOR GIESSEL asked Mr. Tillion to clarify if he is in favor of SJR 1.

MR. TILLION emphasized that he is in favor of SJR 1 if the resolution does not change the law as it currently stands and puts it into the constitution where it belongs.

[3:44:34 PM](#)

JANEL DOCKENDORF, representing self, Wasilla, Alaska, testified in support of SJR 1. She said the PFD should be left the way it is.

[3:45:41 PM](#)

JAMES SQUYRES, representing self, Deltana, Alaska, testified in support of SJR 1. He said he supports the current calculation of the PFD. He suggested that the resolution be passed immediately for comparison to the permanent fund bills currently under consideration.

[3:47:11 PM](#)

JULIET STOESSEL, representing self, Tok, Alaska, testified in support of SJR 1. She set forth that the PFD needs to be saved because the permanent fund is Alaskan's money.

[3:48:25 PM](#)

NORMAN EGOLF, representing self, Tok, Alaska, testified in support of SJR 1. He asked that the current statute be placed into the constitution.

[3:49:23 PM](#)

PEGGY CLEVINGER, representing self, Tok, Alaska, testified in support of SJR 1. She asked that the statute be added to the constitution.

[3:50:46 PM](#)

JACK CLEVINGER, representing self, Tok, Alaska, testified in support of SJR 1.

[3:52:03 PM](#)

DAVID RICHARD LUNTZ, representing self, Delta Junction, Alaska, testified in support of SJR 1. He asked that the people of Alaska be allowed to vote on the measure.

[3:53:28 PM](#)

JON FAULKNER, representing self, Homer, Alaska, testified in support of SJR 1. He believes that the current PFD program is a right of the citizens and that Alaskans have a right to vote on the measure.

[3:55:55 PM](#)

DAVID OTNESS, representing self, Cordova, Alaska, testified in support of SJR 1. He said the state is in a very important juncture and he considered SJR 1 to be the most important item to have come along in a long time.

[3:58:52 PM](#)

BETH FREAD, representing self, Palmer, Alaska, testified in support of SJR 1. She set forth that SJR 1 is critical to the ongoing fiscal health of Alaska's future.

[4:02:15 PM](#)

PAM GOODE, representing self, Deltana, Alaska, testified in support of SJR 1. She stated that she supported keeping the PFD's current calculation. She asserted that the constitution was written for the people to hold the government accountable. She said she does not look at the PFD as an entitlement because the PFD belongs to the people.

[4:04:19 PM](#)

KAREN TERRY, representing self, Chugiak, Alaska, testified in support of SJR 1. She said she did not support using a percentage-of-market-value formula to determine the PFD. She opined that Alaskans want the current PFD formula in the constitution due to excessive spending by the Legislature and possible vetoes. She said a constitutional amendment is the only way to assure that the PFD is protected, and Alaska's unique legacy is preserved for future generations.

[4:07:59 PM](#)

STEVE ST. CLAIR, representing self, Wasilla, Alaska, testified in opposition of SJR 1. He remarked that enshrining the PFD in the constitution is a good thing, but added that there are parts in resolution that he did not like. He opined that inflation proofing is unnecessary because investments in the permanent fund are already inflation proofed and previously proposed 50-50 plans for using the permanent fund do not include inflation proofing.

[4:09:34 PM](#)

KENNETH MCLEOD, representing self, North Pole, Alaska, testified in support of SJR 1. He asserted that the permanent fund should not be changed. He said any changes to the permanent fund should go before the people of Alaska.

[4:11:00 PM](#)

KURT SCHMIDT, representing self, Delta Junction, Alaska, testified in support of SJR 1. He asserted that the resolution maintains and clarifies procedures that govern the PFD and prevents abuse of the fund. He set forth that the people of Alaska should decide their fate and vote on SJR 1. He stated that he disagreed with one Senate member who recently said that the people really don't know the issues and the Legislature should not let them vote in such matters as the PFD.

[4:13:06 PM](#)

CHAIR DUNLEAVY closed public testimony on SJR 1.

[4:13:22 PM](#)

SENATOR GIESSEL moved to report SJR 1, version 30-LS0104\D, from committee with individual recommendations and attached fiscal note(s).

CHAIR DUNLEAVY asked if there was an objection.

SENATOR COGHILL objected and explained that he is not a big fan of putting SJR 1 in the constitution. He stated that there are constitutional principles in SJR 1 that he does not understand. He noted that there is public support, but said the resolution would create a tension between using any of the earnings reserve and the dividend.

SENATOR COGHILL removed his objection.

[4:14:25 PM](#)

CHAIR DUNLEAVY announced that without objection, SJR 1 moved from the Senate State Affairs Standing Committee.

[4:14:38 PM](#)

At ease.

**SCR 1-UNIFORM RULES: ABSTAIN FROM VOTING**

[4:16:14 PM](#)

CHAIR DUNLEAVY called the committee back to order and announced the consideration of SCR 1.

[4:16:48 PM](#)

SENATOR BERTA GARDNER, Alaska State Legislature, Juneau, Alaska, sponsor of SCR 1, set forth that SCR 1 can be described by a quote from "To Kill a Mockingbird," "The one thing that doesn't abide by majority rule is a person's conscience."

She said the Legislature relies on Uniform Rule 34(b) when it comes to conflict of interest for legislators' voting. She summarized that Uniform Rule 34(b) says a member can ask for unanimous consent that he or she be excused from voting because they have a conflict of interest and then the member describes their conflict of interest. She explained that theoretically if nobody objects, the person is allowed not to vote. She pointed out that in her years in the Legislature, someone in the body has always objected and the presiding officer says the person must vote.

She noted that the conflict of interest rule has regularly been an issue with the public. She disclosed that there have been 13 bills and resolutions that have tried to address the issue of conflict of interest in voting since 2007 and none have passed. She revealed that she has addressed a variety of ideas and talked to legislators, but she has not found a good solution. She said the bottom line is a person's conscious should be the guide.

She explained that SCR 1 proposes to simply require that when a person stands up and asks to be excused for voting, describes the conflict of interest and somebody objects, all three parts become part of the record. She noted that she has claimed a conflict of interest on things that she knew were not really a conflict of interest; however, she pointed out that nobody wants to be accused of failing to disclose. She detailed that she has claimed a conflict of interest regarding real estate because her daughter sells real estate as well as claiming a conflict for her son-in-law because he works for an oil company. She opined that legislators tend to over-disclose to "cover our bases."

SENATOR GARDNER set forth that she is trying to solve the conflict of interest problem so that when a person has a genuine conflict there ultimately is a path. She said she wants to change the culture because the culture is to always make people vote. She asserted that a person's conscious should hold if there really is a conflict of interest.

She stated that SCR 1 is a clear proposal to just make a conflict of interest part of the record. She remarked that the resolution is a "sunshine measure" that is not complex or hard to understand.

[4:20:13 PM](#)

SENATOR COGHILL thanked Senator Gardner for tackling the conflict of interest issue and stated that the subject has been a conundrum for many years. He agreed that putting a legislator's conflict of interest on the record is a good idea.

He stated that the final sentence has some good parts and bad parts:

Upon a member's request to be excused from voting, the clerk or secretary shall record in the journal the member requesting to be excused, the stated reason for the request, and, if an objection to the request is made, the member or members who objected.

He said SCR 1 is one good way of saying that if a legislator is going to declare a conflict of interest, at least the declaration will be a matter of record. He expressed that he is grateful that Senator Gardner "wondered out into this territory."

SENATOR GARDNER replied that her resolution is, "Just the toe into the deep water."

SENATOR GIESSEL asked if the committee could hear from Mr. Anderson from Legislative Ethics and noted that she was interested in his opinion on the legislation.

[4:21:29 PM](#)

JERRY ANDERSON, Administrator, The Select Committee on Legislative Ethics, Alaska State Legislature, Juneau, Alaska, explained that the SCR 1 is from the Uniform Rules and not from the Legislative Ethics Act itself. He detailed that the

Legislative Ethics Act statute references the Uniform Rules and that is the only connection with the Legislative Ethics Act.

[4:22:40 PM](#)

SAMANTHA HARRIS, Staff, Senator Berta Gardner, Alaska State Legislature, Juneau, Alaska, explained that Mr. Anderson was asked to be available if the committee's conversation entered the Legislature's ethics laws. She pointed out that there is some documentation that occurs when a legislator declares a conflict, but the nature of the conflict is not recorded, and the practice is that if multiple objections are made the record will just say, "objections were made." She added that if the Senate secretary or chief clerk can discern who the legislator was that objected, on occasion they will record who made the objection, but the act is not always the practice.

She disclosed that legislative research was unable to determine any instance in the Alaska Legislature's history when unanimous consent was given for a declaration of a conflict of interest. She added that the National Conference of State Legislatures provided a summary of voting recusal provisions and in the end the summation was unable to identify any other state that dealt with conflict of interest declarations as Alaska where unanimous consent was required.

MS. HARRIS summarized that SCR 1 seeks to put more conflict of interest declarations on the record as a matter of transparency.

[4:25:00 PM](#)

CHAIR DUNLEAVY held SCR 1 in committee.

[4:25:43 PM](#)

There being no further business to come before the committee, Chair Dunleavy adjourned the Senate State Affairs Standing Committee at 4:25 p.m.