

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

August 30, 2021

9:03 a.m.

**MEMBERS PRESENT**

Representative Ivy Spohnholz, Chair  
Representative Adam Wool, Vice Chair  
Representative Andy Josephson  
Representative Calvin Schrage  
Representative Andi Story  
Representative Mike Prax  
Representative David Eastman

**MEMBERS ABSENT**

All members present

**OTHER LEGISLATORS PRESENT**

Senator Shirley Hughes  
Senator Click Bishop

**COMMITTEE CALENDAR**

PRESENTATION(S): FISCAL POLICY WORKING GROUP REPORT

- HEARD

**PREVIOUS COMMITTEE ACTION**

No previous action to record

**WITNESS REGISTER**

REPRESENTATIVE JONATHAN KREISS-TOMKINS  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Co-presented the 2021 Fiscal Policy Working Group Final Report.

SENATOR MIKE SHOWER  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Co-presented the 2021 Fiscal Policy Working Group Final Report.

## **ACTION NARRATIVE**

[9:03:10 AM](#)

**CHAIR IVY SPOHNHOLZ** called the House Special Committee on Ways and Means meeting to order at 9:03 a.m. Representatives Story, Josephson, Wool, Schrage, Prax, and Spohnholz were present at the call to order. Representative Eastman arrived as the meeting was in progress. Also present were Senators Bishop and Hughes.

### **PRESENTATION(S): Fiscal Policy Working Group Report**

[9:03:51 AM](#)

CHAIR SPOHNHOLZ announced that the only order of business would be a presentation of the fiscal policy working group report by Representative Kreiss-Tomkins and Senator Shower.

[9:05:20 AM](#)

REPRESENTATIVE JONATHAN KREISS-TOMKINS, Alaska State Legislature, introduced the 2021 Fiscal Policy Working Group Final Report [hard copy included in the committee packet]. He began with the graphic at the bottom of page 2, which he said describes the process of the working group: "1. Agree on what the problem is. 2. Agree on what the parts of a solution are. 3. Get more specific: define the solution strike zone." He said internal discussions included the importance of agreeing on, and defining, the problem, but that it wasn't specified in the final report. He acknowledged Representatives Schrage and Prax as other members of the working group. He discussed political and governance issues, and he expressed that Alaska is experiencing "chronic governance failure" in terms of the budget, evidenced by the fact the committee was meeting now, in August. He advised that the risk of governance and political failure is manifest, and that that risk is projected to increase.

[9:08:50 AM](#)

SENATOR MIKE SHOWER, Alaska State Legislature, expressed surprise regarding the ability of the political parties to agree and compromise on the permanent fund dividend (PFD) and spending cap, and to suggest solutions. He noted that everyone in the working group was asked to "step off of their positions and move

to the middle," and he expressed appreciation for the efforts of Representative Kreiss-Tomkins and the other members of the working group.

[9:12:43 AM](#)

REPRESENTATIVE KREISS-TOMKINS described the effort to determine the conceptual components of a possible solution. He said constitutional budget reserve (CBR) reform was discussed, expressing that it would serve the state if other pieces could be put into place. He highlighted a bullet point on page 3, which read, "Process: a comprehensive solution must be negotiated and agreed to as whole, not be taken up one part at a time," and he said that all members of the working group viewed the point as "absolutely necessary." He noted categories of ideological differences within the members of the working group.

[9:17:10 AM](#)

SENATOR SHOWER emphasized that a comprehensive package, instead of one or two individual solutions, is absolutely necessary; taken individually, he said, any one of the solutions wouldn't solve the problem and wouldn't have support.

[9:19:52 AM](#)

CHAIR SPOHNHOLZ asked whether the working group had discussed the mechanics of the process.

[9:20:21 AM](#)

REPRESENTATIVE KREISS-TOMKINS answered that the working group didn't have such a discussion, but that there may have been informative conversations.

CHAIR SPOHNHOLZ opined that agreeing on the scope of the problem and fiscal policy assumptions, as well as identifying elements for a comprehensive solution, showed remarkable progress.

[9:23:21 AM](#)

REPRESENTATIVE PRAX expressed agreement with the importance of the process, and he said it took a while to establish the "rules of engagement."

[9:24:49 AM](#)

SENATOR SHOWER expressed appreciation for Representative Kreiss-Tomkins' effort in the working group, and he detailed the comprehensive aspect of the mechanics and the process. He discussed the need to solve problems that are important to other legislators; for instance, he and Representative Kreiss-Tomkins spoke with lawyers regarding how to guarantee a PFD in the constitution without including a specific formula.

CHAIR SPOHNHOLZ acknowledged that while she supports the largest affordable PFD, she does not support constitutionalizing the formula.

[9:29:21 AM](#)

REPRESENTATIVE WOOL pointed out the semantics of "revenue" and "taxes," and he asked whether taxes, rather than revenue, were an informal tradeoff for the 50/50 split.

SENATOR SHOWER expressed agreement with Representative Wool's assessment, and he reiterated that each member of the working group had to let go of his/her political ideologies to arrive at a solution. He said by the end of the six weeks, everyone had begun compromising in order to solve the problem.

REPRESENTATIVE WOOL noted the polar preferences held by legislators regarding PFD amount, and he said the middle position of \$1,600 would mathematically represent a 33 percent draw of percent of market value (POMV). He referred to the bottom of page 3 of the report, which read as follows [original punctuation provided]:

The FPWG did not endeavor to produce a prescriptive, dollar-specific, "comprehensive solution on a silver platter," but rather to identify ranges and bounds that represented what the FPWG thought was a reasonable "solution strike zone" from which the full legislature could work.

REPRESENTATIVE WOOL asked whether the working group discussed a \$1,600 PFD or a range of 33 to 66 percent POMV.

[9:36:04 AM](#)

REPRESENTATIVE WOOL inquired about the comprehensive goal and asked how the goal was attained.

REPRESENTATIVE KREISS-TOMKINS answered coordination and trust, and he said coordination between leadership and the two caucuses is required. He added that without a constitutional amendment, there would not be a fix to the legislative dysfunction.

CHAIR SPOHNHOLZ noted that elements of a fiscal plan must be agreed upon before attempting to navigate procedural implementation.

[9:39:26 AM](#)

REPRESENTATIVE JOSEPHSON pointed out that the legislature was two weeks into the third special session, and the only "revenue-side" legislation he's seen proposed is from Representative Tarr. He wondered how the legislature would move forward, and he asked whether detailed discussions are possible.

CHAIR SPOHNHOLZ opined that such a suggestion is premature, as the objective of the meeting was to review the report from the working group.

REPRESENTATIVE JOSEPHSON expressed understanding that the proposal was to constitutionalize the PFD but codify revenue. He said a legislature, presently or in the future, could repeal the revenue aspect.

REPRESENTATIVE KREISS-TOMKINS interjected that the Legislative Finance Division was involved in every step of the process to make sure work would occur within a "balanced budget box." He acknowledged Legislative Finance Division Director Alexei Painter's contribution to the process.

[9:42:52 AM](#)

SENATOR SHOWER pointed out that discussions in the working group weren't held in the context of what a future legislature might do, because the "what ifs" were endless. He noted that Representative Josephson's question was "somewhat irrelevant" to the process.

REPRESENTATIVE JOSEPHSON stated his disagreement, and he pointed out that the administration wanted to cut \$1 billion from the operating budget, including \$250 million from education.

REPRESENTATIVE KREISS-TOMKINS expressed that he shared Representative Josephson's concern, and he mentioned that "extreme risk aversion" has contributed to the inability to

solve the problem thus far. He discussed the PFD's possible constitutional certainty, and he pointed out the bullet point under "Constitutional Certainty for the PFD," which read as follows [original punctuation provided]:

- A constitutional amendment that requires the PFD be paid "as provided by law," leaving the formula in statute, and effectively constitutionally guaranteeing the statutory formula.

[9:46:02 AM](#)

REPRESENTATIVE PRAX commented on the importance of the agreed-upon model.

[9:46:52 AM](#)

REPRESENTATIVE JOSEPHSON asked whether a lawyer was consulted regarding whether the use of a model with no formula, but a constitutional guarantee, would reverse the decision of Wielechowski v. Alaska, 406 P.3d 1141 (Alaska 2017).

[9:47:26 AM](#)

REPRESENTATIVE KREISS-TOMKINS referenced a memorandum ("memo") from Legislative Legal Services regarding constitutional certainty, which said the statutory formula for the PFD would have to be appropriated, thereby superseding the Wielechowski decision. If the formula called for a \$1,600 PFD every year, it would be constitutionally certain; likewise if the formula called for a PFD based on 50 POMV.

CHAIR SPOHNHOLZ interjected to note that the formula could change based on fiscal needs.

REPRESENTATIVE KREISS-TOMKINS concurred.

[9:49:25 AM](#)

SENATOR SHOWER said the plan needs to be passable, not only by the legislature but in accordance with the law. He said if there's no certainty in what the PFD will be, the amount will still be according to the whim of the legislature.

CHAIR SPOHNHOLZ acknowledged the importance of committee members' questions. She expressed her desire to recess the meeting.

[9:53:29 AM](#)

REPRESENTATIVE KREISS-TOMKINS said the working group aspired to create numeric certainty wherever possible. Future legislatures can consider other combinations, but this working group's focus was to "solve the problem and balance the budget" in a realistic manner. He called this the "strike zone," and acknowledged that the entire legislative body would make the final decision.

CHAIR SPOHNHOLZ, regarding the strike zone, noted that there was consensus around the single account permanent fund structure in the constitution, with draws limited by the POMV. She further noted there were two different approaches in terms of "constitutional certainty for the PFD." She inquired whether there had been discussion about a compromise between the approaches.

[9:57:43 AM](#)

SENATOR SHOWER noted that without constitutional certainty, changes can continue to be made. He talked about the need for flexibility but also to have a plan with "enough certainty" that will be approved by a vote of Alaskans. He commented on the lack of trust the public has for its legislature.

[9:59:52 AM](#)

REPRESENTATIVE PRAX commented that there had been considerable discussion around constitutionalizing the formula; the alternative would be to include language in the constitution that "addressed the Wielechowski decision" and allow the formula to be set in statute, but to require the statute to be followed. Regarding the lack of public trust, he opined, "The fact that it is now arbitrary and unpredictable is as much a problem as whatever amount anybody comes up with." He shared his preference for the terms being set in statute and the statute being "followed."

[10:00:55 AM](#)

#### **ADJOURNMENT**

The House Special Committee on Ways and Means was recessed to a call of the chair at 10:01 a.m.

[11:32:52 AM](#)

CHAIR SPOHNHOLZ called the House Special Committee on Ways and Means back to order at [11:32] a.m. Representatives Story, Josephson, Wool, Schrage, Prax, Eastman, and Spohnholz were present at the call back to order. Also present was Representative Ortiz.

[11:33:13 AM](#)

REPRESENTATIVE KREISS-TOMKINS resumed his explanation of the working group's report and the "strike zone." He indicated that the heading in bold font on the report indicates [the compromise reached] between members with varying ideologies. He pointed out two paths to establish constitutional certainty: income tax versus sales tax. He named two paths to the transitional approach: PFD versus an earnings reserve account (ERA) overdraw bridge. He reiterated that these decisions ultimately will be made by "the full 60" [members of the House and Senate.

[11:36:45 AM](#)

REPRESENTATIVE WOOL, regarding the strike zone and its range, asked whether a range was discussed in terms of the PFD.

[11:38:14 AM](#)

REPRESENTATIVE KREISS-TOMKINS noted that there was broad support for the 5 percent draw. He expressed his own belief that a lower (4.75 to 4.9 percent) draw would be healthier. He shared that he could support a 50 percent POMV draw. He added that it's up to all 60 members to identify the numbers; this was an attempt to "put out a framework."

CHAIR SPOHNHOLZ underscored that these recommendations were from the working group and do not represent the full legislature.

[11:41:23 AM](#)

REPRESENTATIVE PRAX addressed "risk" and asking people to justify their positions on the matter of "taking realistic risks."

[11:42:26 AM](#)

REPRESENTATIVE STORY, regarding the two choices given by the working group in terms of constitutional certainty of the PFD, noted another solution given by the working group related to

"resilience to fiscal stress." She asked about the two choices and whether the working group had considered redoing the formula in statute.

REPRESENTATIVE KREISS-TOMKINS answered yes, there was a recommendation for a new formula. Regarding resilience to fiscal stress, he said there were different opinions. He said the new formula should be able to work for years to come; the plan should be able to sustain sufficient CBR reserve to absorb fiscal stress, such as market crashes and drops in oil prices.

[11:45:51 AM](#)

REPRESENTATIVE PRAX proffered that the group had discussed constitutionalizing the PFD or adding language in the constitution to clarify that "it is a statutory formula." He observed that many people were upset with the legislature's disregard of the formula, and he opined that the biggest thing the legislature can do moving forward is to restore the public's trust.

[11:47:19 AM](#)

REPRESENTATIVE JOSEPHSON named two issues: one was regarding views on the retirement obligation; the other was what traditional revenue will be. He noted that in FY 11, the Office of Management & Budget (OMB) had projected that two years ago the state's CBR balance would be \$23 billion, and the general fund (GF) unrestricted revenue would be \$6 billion. Those numbers were wrong; therefore, he questioned why he should "think this is right."

[11:48:59 AM](#)

REPRESENTATIVE KREISS-TOMKINS recommended asking instead what the "least wrong or most reasonable assumption" is. He explained why the group focused on actuarial assumptions, landing on one that he felt was reasonable, given the analysis provided by the Division of Legislative Finance. He encouraged criticism of recommendations to ensure their viability.

[11:52:38 AM](#)

REPRESENTATIVE JOSEPHSON noted his own conservative view on the subject of the PFD, but commented that given the legal opinion and that the statutory formula must be changed, he would rather have the formula constitutionalized.

[11:53:37 AM](#)

CHAIR SPOHNHOLZ brought attention to the group's baseline simulation assumptions [hardcopy included in the committee packet]. She noted that one of the assumptions is a community assistance program, and she asked whether that one was controversial or one "with fair unanimity."

[11:54:34 AM](#)

REPRESENTATIVE KREISS-TOMKINS offered to follow up with an answer.

[11:55:42 AM](#)

REPRESENTATIVE STORY asked how \$210 million was decided upon for the capitol budget.

REPRESENTATIVE KREISS-TOMKINS answered that \$210 million was a compromise baseline amount.

[11:57:59 AM](#)

REPRESENTATIVE STORY asked if it was "the will to stay at this lower 1 percent" even considering all the state's deferred maintenance.

REPRESENTATIVE KREISS-TOMKINS replied that the capital budget is a central item and a discretionary call to be decided upon by future legislatures; therefore, the group decided on the 1 percent amount commended by the Division of Legislative Finance, with full recognition that as with all assumptions, it will be wrong. He added, "That's kind of like a good thing, because that's the democratic process."

[11:59:53 AM](#)

REPRESENTATIVE JOSEPHSON, referring to the baseline budget simulation assumption, asked what - with the assumption overlayed with the working group's white paper - the balance in the general fund would be each year.

REPRESENTATIVE KREISS-TOMKINS suggested Alexei Painter from the Division of Legislative Finance would be able to run the numbers and possibly answer the question.

REPRESENTATIVE JOSEPHSON expressed his desire that his eventual successor would have the necessary revenue to solve problems so that the legislature isn't living "paycheck to paycheck."

[12:01:53 PM](#)

REPRESENTATIVE PRAX said that in terms of forward thinking, there is only so much control over risk. He opined that as in business, there is such a thing as being too conservative. He concluded that "we can't be too certain."

[12:03:12 PM](#)

REPRESENTATIVE STORY expressed that she is hopeful after seeing the report, which she said offers a realistic blueprint for the challenges faced. She thanked the working group.

[12:04:11 PM](#)

CHAIR SPOHNHOLZ thanked members. She said while no one member may approve of every aspect of the working group's report, it does provide a plan for moving forward.

[12:05:31 PM](#)

#### **ADJOURNMENT**

There being no further business before the committee, the House Special Committee on Ways and Means meeting was adjourned at [12:05] p.m.