

**ALASKA STATE LEGISLATURE  
HOUSE JUDICIARY STANDING COMMITTEE**

February 22, 2002

1:10 p.m.

**MEMBERS PRESENT**

Representative Norman Rokeberg, Chair  
Representative Scott Ogan, Vice Chair  
Representative John Coghill  
Representative Kevin Meyer  
Representative Ethan Berkowitz  
Representative Albert Kookesh

**MEMBERS ABSENT**

Representative Jeannette James

**COMMITTEE CALENDAR**

HOUSE BILL NO. 281

"An Act relating to civil liability for providing alcoholic beverages to a person under 21 years of age; and providing for an effective date."

- MOVED CSHB 281(JUD) OUT OF COMMITTEE

HOUSE BILL NO. 384

"An Act relating to submission of civil litigation information; and amending Rules 41(a) and 58, Alaska Rules of Civil Procedure, Rule 511(c) and (e), Alaska Rules of Appellate Procedure, and Rule 503(d), Alaska Rules of Evidence."

- MOVED HB 384 OUT OF COMMITTEE

HOUSE BILL NO. 396

"An Act relating to a surcharge on certain offenses for law enforcement equipment."

- HEARD AND HELD

SPONSOR SUBSTITUTE FOR HOUSE JOINT RESOLUTION NO. 36

Proposing an amendment to the Constitution of the State of Alaska relating to limiting the rate of state individual income taxes and sales taxes.

- HEARD AND HELD

**PREVIOUS ACTION**

BILL: HB 281

SHORT TITLE: CIVIL LIABILITY FOR PROVIDING ALCOHOL

SPONSOR(S): REPRESENTATIVE(S) MEYER

Jrn-Date	Jrn-Page		Action
01/14/02	1948	(H)	PREFILE RELEASED 1/4/02
01/14/02	1948	(H)	READ THE FIRST TIME - REFERRALS
01/14/02	1948	(H)	L&C, JUD
02/11/02	2209	(H)	COSPONSOR(S): DYSON
02/11/02		(H)	L&C AT 3:15 PM CAPITOL 17
02/11/02		(H)	Moved Out of Committee
02/11/02		(H)	MINUTE(L&C)
02/13/02	2222	(H)	L&C RPT 5DP 1NR
02/13/02	2222	(H)	DP: ROKEBERG, MEYER, KOTT, HALCRO,
02/13/02	2222	(H)	MURKOWSKI; NR: CRAWFORD
02/13/02	2222	(H)	FN1: ZERO(H.L&C)
02/20/02		(H)	JUD AT 1:00 PM CAPITOL 120
02/20/02		(H)	Heard & Held
02/20/02		(H)	MINUTE(JUD)
02/20/02		(H)	MINUTE(JUD)
02/22/02		(H)	JUD AT 1:00 PM CAPITOL 120

BILL: HB 384

SHORT TITLE: DISCLOSE RESOLUTION OF CIVIL LITIGATION

SPONSOR(S): JUDICIARY

Jrn-Date	Jrn-Page		Action
02/06/02	2164	(H)	READ THE FIRST TIME - REFERRALS
02/06/02	2164	(H)	JUD
02/11/02		(H)	JUD AT 1:00 PM CAPITOL 120
02/11/02		(H)	<Bill Postponed to 2/13/02>
02/13/02		(H)	JUD AT 1:00 PM CAPITOL 120
02/13/02		(H)	Scheduled But Not Heard
02/22/02		(H)	JUD AT 1:00 PM CAPITOL 120

BILL: HB 396

SHORT TITLE: ALCOHOL OFFENSE SURCHARGE/EQUIPMENT FUND

SPONSOR(S): JUDICIARY BY REQUEST

Jrn-Date	Jrn-Page		Action
02/08/02	2183	(H)	READ THE FIRST TIME -

			REFERRALS
02/08/02	2183	(H)	JUD, FIN
02/08/02	2183	(H)	REFERRED TO JUDICIARY
02/22/02		(H)	JUD AT 1:00 PM CAPITOL 120

BILL: HJR 36

SHORT TITLE: CONSTITUTIONAL AMENDMENT : TAX CAPS  
 SPONSOR(S): REPRESENTATIVE(S) CROFT

Jrn-Date	Jrn-Page		Action
02/01/02	2115	(H)	READ THE FIRST TIME - REFERRALS
02/01/02	2115	(H)	JUD, FIN
02/19/02	2306	(H)	SPONSOR SUBSTITUTE INTRODUCED
02/19/02	2306	(H)	READ THE FIRST TIME - REFERRALS
02/19/02	2306	(H)	JUD, FIN
02/19/02	2306	(H)	REFERRED TO JUDICIARY
02/22/02	2368	(H)	COSPONSOR(S): HALCRO
02/22/02		(H)	JUD AT 1:00 PM CAPITOL 120

**WITNESS REGISTER**

MIKE FORD, Attorney  
 Legislative Counsel  
 Legal and Research Services Division  
 Legislative Affairs Agency  
 Terry Miller Building, Room 329  
 Juneau, Alaska 99801  
 POSITION STATEMENT: Spoke as the drafter of HB 281 and responded to questions.

HEATHER M. NOBREGA, Staff  
 to Representative Norman Rokeberg  
 House Judiciary Standing Committee  
 Alaska State Legislature  
 Capitol Building, Room 118  
 Juneau, Alaska 99801  
 POSITION STATEMENT: Presented HB 384 and HB 396 on behalf of the House Judiciary Standing Committee, sponsor.

LARRY COHN, Executive Director  
 Alaska Judicial Council (AJC)  
 Alaska Court System (ACS)  
 1029 West Third Avenue, Suite 301  
 Anchorage, Alaska 99501-1981  
 POSITION STATEMENT: Assisted with the presentation of HB 384.

MATT WILLIAMS, Officer  
Anchorage Police Department (APD)  
Municipality of Anchorage (MOA)  
4501 South Bragaw Street  
Anchorage, Alaska 99507  
POSITION STATEMENT: Testified in support of HB 396.

WALT MONEGAN, Chief  
Anchorage Police Department (APD)  
Municipality of Anchorage (MOA)  
4501 South Bragaw Street  
Anchorage, Alaska 99507  
POSITION STATEMENT: Responded to questions during discussion of  
HB 396.

MARTI GREESON, Executive Director  
Anchorage Chapter  
Mothers Against Drunk Driving (MADD)  
3600 Arctic Boulevard, Suite 3  
Anchorage, Alaska 99503  
POSITION STATEMENT: Testified in support of HB 396.

CINDY CASHEN  
Juneau Chapter  
Mothers Against Drunk Driving (MADD)  
211 4th Street, Suite 102  
Juneau, Alaska 99801  
POSITION STATEMENT: Testified in support of HB 396.

ROYCE WELLER, Special Assistant  
Office of the Commissioner  
Department of Public Safety (DPS)  
PO Box 111200  
Juneau, Alaska 99811-1200  
POSITION STATEMENT: During discussion of HB 396, provided  
comments on behalf of the department and responded to questions.

IRL STAMBAUGH, Executive Director  
Alaska Police Standards Council (APSC)  
Department of Public Safety (DPS)  
PO Box 111200  
Juneau, Alaska 99811-1200  
POSITION STATEMENT: Responded to questions during discussion of  
HB 396.

DOUG WOOLIVER, Administrative Attorney

Administrative Staff  
Office of the Administrative Director  
Alaska Court System (ACS)  
820 West 4th Avenue  
Anchorage, Alaska 99501-2005  
POSITION STATEMENT: Responded to questions during discussion of  
HB 396.

REPRESENTATIVE ERIC CROFT  
Alaska State Legislature  
Capitol Building, Room 400  
Juneau, Alaska 99801  
POSITION STATEMENT: Sponsor of SSHJR 36.

**ACTION NARRATIVE**

TAPE 02-21, SIDE A  
Number 0001

CHAIR NORMAN ROKEBERG called the House Judiciary Standing Committee meeting to order at 1:10 p.m. Representatives Rokeberg, Ogan, Coghill, Meyer, Berkowitz, and Kookesh were present at the call to order.

HB 281 - CIVIL LIABILITY FOR PROVIDING ALCOHOL

Number 0028

CHAIR ROKEBERG announced that the first order of business would be HOUSE BILL NO. 281, "An Act relating to civil liability for providing alcoholic beverages to a person under 21 years of age; and providing for an effective date."

Number 0202

REPRESENTATIVE OGAN moved to adopt the proposed committee substitute (CS) for HB 281, version 22-LS1064\C, Ford, 2/20/02, as a work draft. There being no objection, Version C was before the committee.

REPRESENTATIVE MEYER explained that Version C incorporates some of the ideas discussed at the prior hearing such as retaining strict liability for licensees and instituting civil liability for the general public. He also noted that Version C retains the term "knowingly" and provides a definition of "civil liability" as it relates to this section of statute. In response to a question, he said he has not yet had a chance to

find out whether homeowner's insurance would protect the host of a social gathering from civil liability.

REPRESENTATIVE BERKOWITZ asked whether there is a distinction between someone being civilly liable and someone being liable.

Number 0401

MIKE FORD, Attorney, Legislative Counsel, Legal and Research Services Division, Legislative Affairs Agency, said no, not in this context.

CHAIR ROKEBERG asked whether, by retaining the term "knowingly", negligence no longer has to be proven.

MR. FORD said that is correct. He said that "knowingly" is the standard established by Version C; therefore, since "knowingly" is defined in Title 4, if someone "knowingly" furnishes alcohol, that person will be civilly liable. In response to further questions, he offered that "knowingly" is a pretty high standard. Therefore, simply having alcohol available in a punch bowl at a party, for example, would not automatically cause the host to be civilly liable; he indicated that it would depend on the facts of each particular case.

REPRESENTATIVE MEYER said that his intention is to address situations in which it is obvious that the adult knows he/she is providing alcohol to underage drinkers; for example, when a person is approached outside of a liquor store and asked to buy alcohol by a youthful looking person.

REPRESENTATIVE BERKOWITZ asked if bootleggers could be held civilly liable under Version C.

MR. FORD said no. A bootlegger is someone who sells alcohol, he noted, whereas Version C addresses the issue of people providing alcohol to underage drinkers. He assured the committee that the nonlicensee bootlegger is still held to the strict liability standard.

Number 0701

REPRESENTATIVE OGAN moved to report HB 281, version 22-LS1064\C, Ford, 2/20/02, out of committee with individual recommendations and the accompanying zero fiscal note. There being no objection, CSHB 281(JUD) was reported from the House Judiciary Standing Committee.

CHAIR ROKEBERG called an at-ease from 1:20 p.m. to 1:21 p.m.

HB 384 - DISCLOSE RESOLUTION OF CIVIL LITIGATION

[Contains brief mention that HB 384 would satisfy the intent of SB 211.]

Number 0734

CHAIR ROKEBERG announced that the next order of business would be HOUSE BILL NO. 384, "An Act relating to submission of civil litigation information; and amending Rules 41(a) and 58, Alaska Rules of Civil Procedure, Rule 511(c) and (e), Alaska Rules of Appellate Procedure, and Rule 503(d), Alaska Rules of Evidence."

Number 0736

HEATHER M. NOBREGA, Staff to Representative Norman Rokeberg, House Judiciary Standing Committee, Alaska State Legislature, on behalf of the House Judiciary Standing Committee, sponsor, explained that HB 384 responds to issues that have arisen as a result of the legislature's interest in tort reform. At the time, the legislature decided that it did not have enough information about what was really happening with civil cases, jury decisions, amounts of damages, and other issues. The legislature decided to require attorneys, once a case is closed, to report [certain] information about those cases in order to determine whether a tort-reform problem really exists. To this end, the Alaska Judicial Council (AJC) created a civil-case data-reporting form titled "Information About the Resolution of Civil Cases" from which the AJC could compile information for its report to the legislature.

MS. NOBREGA noted that unfortunately, the response to this form has been rather dismal. According to an estimate by the AJC, less than half the attorneys are actually filling these forms out. Therefore, in an effort to increase reporting, HB 384 provides for the form to be changed so that it is clearer and easier to fill out, alters some of the court rules to clarify when the forms are supposed to be filled out, and lets the court system know how and when attorneys are to close cases and report on them. She pointed out that HB 384 does not create any new law; it merely alters existing laws in an effort to encourage attorneys to report their information in a timely manner. Ms. Nobrega informed the committee that the May 2001 report from the

AJC is included in members' packets, as is a copy of the new reporting form proposed by the AJC.

REPRESENTATIVE BERKOWITZ asked if the question of attorney-client privileges being invoked in some instances has been resolved.

MS. NOBREGA confirmed that some attorneys have claimed that the information requested on the form is privileged, but noted that there is a section in HB 384 which clarifies that the information on the forms is kept confidential by the AJC and so is not considered privileged for the purposes of reporting.

REPRESENTATIVE OGAN asked whether all the members of the AJC are attorneys.

REPRESENTATIVE BERKOWITZ noted that on the inside page of the AJC's report, there is a listing of both attorney members and non-attorney members.

REPRESENTATIVE OGAN, after surmising that the attorney members are bound by "attorney-confidentiality restrictions," asked whether the non-attorney members are precluded from looking at the forms.

REPRESENTATIVE BERKOWITZ asked whether information about insurance settlements would also be included in the reporting.

Number 1085

LARRY COHN, Executive Director, Alaska Judicial Council (AJC), Alaska Court System (ACS), testified via teleconference. After noting that Teresa Carns, Senior Staff Associate, is present with him, he said that there is a proposal to address the attorney-client privilege issue. The AJC did receive a number of responses from attorneys, pursuant to the reporting requirement, in which the attorneys claimed that the information - usually pertaining to their fees - is protected by attorney-client privilege. In those cases, the AJC usually responded via letter, pointing out that this privilege did not apply to the situation, that the attorneys were under a legal obligation to provide the information to the AJC, and that the AJC is under strict confidentiality standards to protect the information. He added that in almost all instances, the attorneys who responded to that letter did provide the required information; however, there are still a few attorneys who have insisted that the attorney-client privilege applies. He explained that HB 384

adds a provision in the evidentiary rules that makes it expressly clear that the attorney-client privilege doesn't apply to the provision of providing this information to the AJC.

MR. COHN, in response to the question regarding the makeup of the AJC's membership, relayed that the AJC is [composed] of six people, three who are attorneys and three who are not. He added that the chief justice of the Alaska Supreme Court serves as the ex officio chairperson, that there are two attorneys on the AJC's staff, and that the remainder are not attorneys. He also explained that applicability of the attorney-client privilege would not turn on whether a member of the AJC is attorney. He went on to say that when the legislature passed the tort reform legislation in 1997, it included this requirement that attorneys and pro se litigants provide information to the AJC concerning the resolution of civil cases. The purpose of the requirement was to make available information necessary for an informed public discussion of tort reform. Since that requirement was enacted, the AJC has issued two reports; the most recent report was issued in May 2001 and contains information on nearly 3,000 civil case that were closed between June 1999 and December 2000.

Number 1301

MR. COHN explained that in that report, the AJC discussed the problem it had getting attorneys to comply with the reporting requirement. He said that in an effort to monitor attorney compliance, the AJC's staff randomly researched about 875 civil case files from around the state. In 31 percent of those files, he noted, neither attorney submitted any civil-case data, and there were many other cases in which only one attorney submitted a form. As a result, the AJC sent letters and occasionally made phone calls to all the attorneys identified in that review, as well as to noncompliant attorneys who were identified through the AJC's routine collection of data-compliant attorneys, informing them that they had not sent in the required data. He noted that this additional step produced moderately successful results.

MR. COHN pointed out that the most recent report from the AJC provides particular information pertaining to attorney compliance. In the period of time covered by the report, plaintiffs or their attorneys were more likely to file reports with the AJC than defendants or their attorneys; overall, 55 percent of the forms that the AJC received were filed by plaintiffs. Of the cases that the AJC analyzed, about 71 percent had information from plaintiffs while only 54 percent

had information from defendants. He noted, however, that in tort cases, significantly more defendant's attorneys than plaintiff's attorneys filed forms with the AJC.

MR. COHN relayed that currently the AJC is sending one or more letters to attorneys identified by the routine collection of data as being noncompliant. He added that the AJC is advising attorneys, in appropriate instances, that their willful failure to abide by the reporting requirement will be reported to the [Alaska Bar Association]. He also noted that the AJC's current statistics suggest a moderately higher compliance rate since the May 2001 report. He pointed out that this last report recommended that the automatic reporting requirement be eliminated and substituted with legislation that would enable the AJC to obtain information responding to specific needs identified by the legislature.

Number 1399

MR. COHN said that the AJC is in favor of HB 384 because it is intended to enhance attorneys' compliance - it does so by clarifying the duty of attorneys to report civil-case information - and it also enables the AJC to more accurately track the reporting of cases. He also pointed out that HB 384 eliminates three additional types of cases from the reporting requirement: [delinquent tax cases, tax foreclosure cases, and quiet title cases].

REPRESENTATIVE BERKOWITZ said that to his recollection, in requiring the collection of settlement information, there is also an insurance component. He asked if the AJC has any responsibility to acquire or to use the data collected by the Division of Insurance regarding insurance costs.

MR. COHN said yes. He noted that there is a provision in AS 21.06.087 that requires the director of the Division of Insurance to report annually to the House Judiciary Standing Committee, the Senate Judiciary Standing Committee, and the Governor, information pertaining to the availability and cost of insurance in Alaska. He noted that one of the express intentions of that legislation was to ensure that liability insurance would be affordable and available to all Alaskans. He explained that in November, he wrote a letter to the director of the Division of Insurance requesting a copy of the reports filed with the legislature and the governor, because that information would assist the AJC in its reporting. He noted, however, that the Division of Insurance has not responded to this request. He

pointed out that the statute authorizes the Division of Insurance to consult with the AJC with respect to implementing those responsibilities, but added that he is unaware of any such efforts by the Division of Insurance.

CHAIR ROKEBERG assured Mr. Cohn that he would research that issue as soon as possible.

REPRESENTATIVE BERKOWITZ noted that he has "something" from Mr. Lohr dated 1999, and he surmised that the Division of Insurance complies at a much lower rate even than the attorneys to which Mr. Cohn referred. He remarked that perhaps something could be done to remediate the Division of Insurance's delinquency.

CHAIR ROKEBERG said he would look into this issue.

MR. COHN, in response to a question, reiterated that the proposed additional exemptions are: delinquent tax cases, tax foreclosure cases, and quiet title cases. He noted that should HB 384 pass, it would satisfy the intent of legislation proposed by Senator Leman - SB 211 - which refers to excluding municipal tax cases.

REPRESENTATIVE BERKOWITZ, in response to questions directed at Mr. Cohn, pointed out that the form in members' packets is a sample of what the AJC would like to start using.

Number 1732

CHAIR ROKEBERG closed the public hearing on HB 384.

REPRESENTATIVE OGAN asked whether there is still a need for this information.

CHAIR ROKEBERG said that according to his recollection, at the time tort reform legislation was passed, the central argument for gathering this information was to see what impact the reform bills had on awards, settlements, and insurance rates. He surmised that because proponents suggested that tort reform would lower insurance rates, it is still important to gather the information in order to ensure that the insurance industry is following the spirit of the law.

REPRESENTATIVE BERKOWITZ said:

That's why I would hope that before we move this bill, we find a way of checking it out, because the

preliminary information I have, also from that 1999 survey from the Division of Insurance, indicated that the initial response [was] ... that there had either been no change in insurance rates, or that the insurer had been unable to assess the affect of tort reform on the cost and availability of insurance in Alaska. And, thus, if we had information from [a] subsequent couple of years, we might be able to craft that into the legislation.

CHAIR ROKEBERG noted that he is in quite a bit of contact with the Division of Insurance regarding other legislation; he knew that "they are always under the gun to be able to do that," so he did not see any need to delay reporting HB 384 from committee.

REPRESENTATIVE OGAN suggested that some people would argue that because the trial lawyers watered the bills down so much, they didn't have much effect. He asked whether they should consider putting a sunset date on HB 384 so that they could take another look at the issue "in a couple of years" and analyze whether gathering this information is useful.

Number 1857

REPRESENTATIVE BERKOWITZ pointed out that it was the Speaker of the House who launched "this legislation," which, he opined, "was closing the barn door after the horse has already fled." He said he thought it was a good idea both then and now; "if we're trying to assess the impact of tort reform, we ought to have some hard data to do it." "Having been through the tort reform battle with only anecdotal information at our disposal," he opined that "that was wholly inadequate." And "as for the trial lawyers watering this thing down," he said that "this was a garden planted, grown, and sowed by the insurance agencies."

CHAIR ROKEBERG noted that he would not support a sunset date, but added that he did think they should get the information from the Division of Insurance as soon as possible; therefore, in order to determine whether any other legislation is needed, he would ask the director to come before the committee.

REPRESENTATIVE BERKOWITZ mentioned that the committee also has the ability to change the title [in order to add any necessary provisions to HB 384].

CHAIR ROKEBERG said he would prefer to move HB 384 out of committee and move on to the rest of items on the calendar.

Number 1950

REPRESENTATIVE OGAN moved to report HB 384 out of committee with individual recommendations and the accompanying zero fiscal note. There being no objection, HB 384 was reported from the House Judiciary Standing Committee.

HB 396 - ALCOHOL OFFENSE SURCHARGE/EQUIPMENT FUND

Number 1971

CHAIR ROKEBERG announced that the next order of business would be HOUSE BILL NO. 396, "An Act relating to a surcharge on certain offenses for law enforcement equipment." He then called an at-ease from 1:45 p.m. to 1:46 p.m.

Number 1972

HEATHER M. NOBREGA, Staff to Representative Norman Rokeberg, House Judiciary Standing Committee, Alaska State Legislature, on behalf of the House Judiciary Standing Committee, sponsor, noted that HB 396 is referred to as the Justin Wollam Act. She explained that HB 396 would create a \$100 surcharge on any offense listed under Title 4, which pertains to alcoholic beverages; under Title 28, which pertains to motor vehicles and ingestion or possession of alcohol as an element of the offense; or under any regulation or municipal ordinance authorized by Title 28 that has to do with ingestion or possession of alcohol as an element of the offense. She noted that this surcharge money would go into the general fund (GF) and then be appropriated by the legislature to the Alaska alcohol offense equipment fund ("the fund"), which would then be used by municipalities and the Department of Public Safety to purchase law enforcement equipment that would assist in enforcement and prevention of alcohol-related offenses.

REPRESENTATIVE BERKOWITZ asked how much money would be raised.

CHAIR ROKEBERG asked whether there is a fiscal note attached to HB 396.

MS. NOBREGA said that there is an indeterminate fiscal note from the Public Defender Agency and a zero fiscal note from the Alaska Court System. She remarked that she could only estimate

how much money has been collected under the existing surcharge statute, not how much would be collected under HB 396.

REPRESENTATIVE COGHILL mentioned that getting money from indigent offenders could prove difficult.

MS. NOBREGA remarked that both HB 396 and the current surcharge statute have a provision that allows an individual to perform community work service (CWS) in lieu of paying the surcharge.

CHAIR ROKEBERG asked whether minors who commit offenses under Title 4 would be entitled to a jury trial before being sentenced to [CWS].

MS. NOBREGA reminded members that according to the [1995 Alaska Court of Appeals] Booth decision, as long as performing [CWS] is not mandatory and is merely an option, a jury trial would not be required.

Number 2235

MATT WILLIAMS, Officer, Anchorage Police Department (APD), Municipality of Anchorage (MOA), testified via teleconference in support of HB 396. He elaborated:

This bill is one that we believe has been needed for some time. The people of Alaska ... deserve the best possible enforcement of their law, and this legislation will help in that. One thing that this bill will help with is that on the passage of this bill and the conviction of somebody under Title 4 and Title 28, a person most responsible for the crime - the defendant - will help pay for the cost of the equipment used in combating the very crimes that they've [been] committing. This type of equipment most likely will be, but is not limited to, in-car video recording systems, portable breath testers [PBTs], intoximeters, radars, and lasers; all these devices play different roles in dealing with criminal behavior involving alcohol, [and] all are important.

... The purpose of in-car video systems ... will be evidentiary; a picture is worth a thousand words. I could describe the incident to a jury in great detail until I'm blue in the face, but [with] them being able to see it on video, it's possible for the jury to really see the incident as it's happening, for

themselves, and for them to make their own decision accordingly. Another major purpose of in-car video is officer safety; this video allows us to see what the vehicle that's stopped looks like, what the license plate [number] is, [and] possibly what the driver or the occupants of the car look like, [so that] if something happens to the officer, we'd be able to have a starting point to track down suspects based on the information gleaned from the video. And also the incidents that are captured on video could possibly be used for training in the future.

MR. WILLIAMS continued:

Another device that would possibly be purchased with these funds are the [PBTs]. Portable breath testers are miniature intoximeters that officers are able to carry in their patrol cars for immediate uses when they're needed. Portable breath testers allow officers to check the sobriety of minors ... at large parties or school functions when police are called to those functions; they also allow us to check the sobriety of people [who are on] probation when we come in contact with them. And [PBTs] are always available because they are always in an officer's car for whatever situation may arise.

Number 2387

And some other equipment, the radars and lasers -- greater uses of these devices along our highways allow for greater traffic enforcement, which in turn allows us to deal with other crimes that are discovered after the initial traffic stop ... through the contact of the officer with the driver [or] the occupants of the car, [and] their observations of what they're seeing inside the car. ... All these pieces of equipment are expensive and budgets are tight, and this law would help us to begin to cover some of the funding gaps. So, as a police officer myself, and from all the other police officers in the [APD], we urge you to work on this bill - make it as effective as possible so that we can begin to purchase these equipment items and become more effective for our own safety and citizens' safety, and be more efficient.

MR. WILLIAMS concluded:

To answer one of the questions that you had before about how much money we could possibly expect to bring in: the only figures that I have are [from] arrests that were made in the municipality between July 1st, 2000, and June 30th, 2001. There were a total of 1,773 DWI [Driving While Intoxicated] arrests in the municipality during that time; that comes out to 4.8 [arrests] a day. Now, how many of those were state charges, I do not know, and how many were municipal, I don't know that either, but more than likely, mostly municipal. ... Those are the only figures I have, but based on those, it has a very big possibility of being a pretty decent amount of money.

CHAIR ROKEBERG asked: What other alcohol offenses are there besides DWI and impairment and minor in possession?

MR. WILLIAMS noted that Title 4 also covers offenses such as being intoxicated in a bar and "drunk on premises."

CHAIR ROKEBERG asked: What about licensure provisions in Title 4?

TAPE 02-21, SIDE B  
Number 2496

CHAIR ROKEBERG continued: Aren't there license offenses that might rise to the level of a crime?

Number 2489

WALT MONEGAN, Chief, Anchorage Police Department (APD), Municipality of Anchorage (MOA), testified via teleconference, explaining that on a fairly regular basis, the APD assists the Alcohol Beverage Control (ABC) Board in doing premises checks, and these premises can be monitored for license and code violations with the use of the [PBTs]. Use of the [PBTs] in this manner aids the APD in keeping the community safe.

REPRESENTATIVE BERKOWITZ asked the APD representatives whether, over time, the number of DWI offenses is being reduced.

MR. MONEGAN said that as the population grows, the APD is actually seeing more violations, although not in proportion to the population growth because there are a lot of agencies that have helped heighten awareness and mitigate the growth of DWIs.

REPRESENTATIVE BERKOWITZ asked Mr. Monegan whether he thinks the APD has adequate resources, in terms of "material" and officers, to handle the problem to his satisfaction.

MR. MONEGAN replied that he would have to say no. He added that the reason for that response relates to the fact that although the "in-car video" is such a [valuable] tool, as relayed by Mr. Williams, the APD does not have enough of this type of equipment to be able to put one in every patrol car. If the in-car video could become standard issue for all patrol cars, it would have a significant impact on the conviction rate.

REPRESENTATIVE BERKOWITZ asked how many more in-car videos and how many more officers would be needed, and what would be the total cost. He said that his frustration with the way the DWI/alcohol problem is currently approached is that it tends to be "with little band-aids, one piece at a time, instead of getting aggressive and going after it completely."

MR. MONEGAN relayed that he has about 200 uniformed officers on patrol, each with his/her own car, but only about a half dozen if those cars are equipped with in-car video. "It would certainly aid me to have a significant portion of [those] 200 [cars] ... equipped," he said, adding that adoption of HB 396 would help defray the costs of such equipment. They are not cheap, he noted, costing approximately \$5,500 apiece.

REPRESENTATIVE BERKOWITZ asked whether there were an adequate number of officers.

Number 2304

MR. MONEGAN replied that although [adequate] staffing is always an issue, DWI offenses are a priority and are something that "we'll find regardless of how many or how few officers we do have."

CHAIR ROKEBERG asked what the cost of a PBT is.

MR. MONEGAN said it is about \$500.

CHAIR ROKEBERG asked what cost is for a new intoximeter.

MR. MONEGAN said that the APD is utilizing DataMaster machines, but he'd not brought figures relating to cost with him. In response to questions, he confirmed that a PBT result is not

satisfactory for use in court, and that those results are not used for DWI arrests; PBTs are used in situations pertaining to minor consuming and liqueur license violations. He said that in some instances, an officer will use the PBT simply as an aid in determining whether there is probable cause, particularly now that the blood alcohol concentration [BAC] limit has been lowered to .08. In response to further questions, he said that the APD is very much in support of the .08 BAC limit, and that it has been an aid to the community; "we do not want to see people hurt or killed because of drunk driving." He noted, however, that he did not have the current statistics with him regarding arrests for DWI at the .08 BAC level, but would be happy to research that information for the committee.

CHAIR ROKEBERG asked Mr. Monegan whether he had any suggestions regarding the collection and allocation of surcharge monies.

MR. MONEGAN indicated that the deputy commissioner of the Department of Public Safety had mentioned to him that perhaps the monies could go to the Alaska Police Standards Council (APSC), which would then grant the monies to various [police] departments.

Number 2056

MARTI GREESON, Executive Director, Anchorage Chapter, Mothers Against Drunk Driving (MADD), testified via teleconference, and said that MADD supports HB 396, which would provide a consistent, ongoing source of funding for public safety and current enforcement technology. Offenders would be contributing directly to enforcement, and enforcement contributes directly to prevention. Public safety should never be compromised because of budgetary shortfalls, she opined, adding that HB 396 is a perfect example of restorative justice.

Number 1995

CINDY CASHEN, Juneau Chapter, Mothers Against Drunk Driving (MADD), reiterated that MADD Alaska chapters support HB 396. She added that as [the family member of] a victim [of a drunk driver], she will always wonder whether such a fund would have made a difference in catching the man who killed her father, before he rammed his truck into the car her father was in. She opined that HB 396 will make a difference [for others in the future], and encouraged its passage.

Number 1947

ROYCE WELLER, Special Assistant, Office of the Commissioner, Department of Public Safety (DPS), indicated that the DPS recognizes and appreciates the ultimate sacrifice made by APD officer Justin Wollam. In answer to the question of how much money HB 396 might generate, he said that although the DPS is still waiting for a complete Alaska Public Safety Information Network (APSIN) report, his estimate is that the proposed \$100 surcharge could perhaps generate up to \$350,000. He mentioned, however, that there is a concern that because monies generated under the current surcharge statute fund the APSC for activities such as in-service training and academy training, and because there may be overlapping offenders, funds currently generated for regular APSC purposes might be reallocated to the Alaska alcohol offense equipment fund.

CHAIR ROKEBERG asked Mr. Weller to explain the current surcharge statute - AS 12.55.039.

MR. WELLER replied that the surcharges listed under AS 12.55.039 are the only ones that fund the APSC and have a graduated rate depending on the offense.

Number 1736

IRL STAMBAUGH, Executive Director, Alaska Police Standards Council (APSC), Department of Public Safety (DPS), added that under AS 12.55.039, there is a \$10 surcharge for citations, a \$50 surcharge for most misdemeanors, a \$75 surcharge for DWI offenses, and a \$100 surcharge for felony offenses, all of which currently go to the APSC. He mentioned that last year these surcharges generated about \$960,000 for the APSC, with about one-third each going to administrative costs, academy funding, and in-service advanced training.

REPRESENTATIVE MEYER asked what the fine was for a DWI offense.

CHAIR ROKEBERG said that it depends. There is an initial fine of \$250, and the first two offenses are misdemeanors.

REPRESENTATIVE MEYER asked what the rate of collection is and whether offenders' permanent fund dividends (PFDs) could be used as "collateral" if they don't pay.

CHAIR ROKEBERG remarked that the DPS is probably not the correct department to get that type of information from.

REPRESENTATIVE MEYER replied that his point is that if fines are not currently being collected, adding another surcharge will not improve matters, although he did acknowledge that "anything is better than nothing."

CHAIR ROKEBERG mentioned that other legislation the committee has heard would raise the fines for DWI offenses. He noted that "a surcharge is always on top of the statutory fines." With regard to the question of whether PFDs can be used to pay monies owed, he said that the Department of Law (DOL) is responsible for collecting all fines and assessments, other than ones that are initially collected by the courts.

Number 1598

DOUG WOOLIVER, Administrative Attorney, Administrative Staff, Office of the Administrative Director, Alaska Court System (ACS), in response to a question, said:

The trouble right now is [that] fines do go to the Department of Law for collection - fines, of course, [are] not the same as surcharges - but our accounting system, as it is, can't transmit the surcharge itself for collection. Now, as you know, we're getting a new computer system, [at] which time they will be able to. But as of right now, although technically you could go after a [PFD] for a surcharge, we don't have the technical capability to do that, but we will....

CHAIR ROKEBERG mentioned that the courts collect bail and fines that are paid right then and there.

MR. WOOLIVER said that is correct, and confirmed that any unpaid fines or assessments get forwarded onto the DOL for collections.

CHAIR ROKEBERG asked whether the ACS collects any surcharges.

MR. WOOLIVER said that the ACS does collect surcharges, but any that aren't paid to the court system are not subsequently transferred to the DOL for collection due to a lack of technical capability.

REPRESENTATIVE COGHILL asked whether the ten-day timeframe in which the surcharge must be paid is sufficient for the ACS.

MR. WOOLIVER indicated that the ten-day timeframe proposed by HB 396 does not affect the ACS one way or the other.

CHAIR ROKEBERG, returning to the issue of how much money would be generated by the surcharge proposed by HB 396, surmised that approximately half of the DPS's estimate would come in through APD DWI arrests. He noted that HB 396 does not outline a specific mechanism for collecting and distributing the proposed surcharge, although the DPS has suggested that the mechanism for current surcharges be used.

MR. STAMBAUGH confirmed that the suggestion is to have the surcharges proposed by HB 396 appropriated to the APSC, the board of which would then determine which communities should receive those funds. In response to a question, he relayed that the APSC has 11 members, including several police chiefs; a deputy police chief; the commissioners from the Department of Public Safety and the Department of Corrections; the director of Community Corrections in Anchorage; and "civilian" members from several communities.

Number 1396

CHAIR ROKEBERG voiced some reluctance to turn over the allocation process to the APSC, and suggested that that aspect of HB 396 should be discussed further. He asked whether it would be possible to, in effect, return surcharges to the communities from which they were generated.

REPRESENTATIVE OGAN remarked that HB 396 states that the money from surcharges shall go directly into the general fund, and opined that the current discussion appears to be seriously treading into the realm of dedicated funds, which are not allowed under the Alaska State Constitution. He added that although perhaps legally "it" isn't a dedicated fund, the legislature often sets up "quasi dedicated funds" to which general funds are appropriated.

CHAIR ROKEBERG asked Mr. Weller to explain where the money would go according to HB 396.

MR. WELLER said that as proposed by HB 396, the money would be deposited into the general fund - separately accounted for - and then appropriated to the Alaska alcohol offense equipment fund, from which the legislature would then appropriate money out of for the DPS and municipalities. So there would really be two appropriations as proposed by HB 396, he remarked: one into the fund and one out of the fund.

CHAIR ROKEBERG said that although he understands the constitutional argument regarding dedicated funds, the legislature often sets up similar mechanisms as need requires; it is up to the legislature to decide whether there is a need to do so for this particular purpose. "The surcharges ... are controversial, and right now I'm concerned because they are kind of stepping on other things," he added.

REPRESENTATIVE BERKOWITZ noted that legislation reported out of committee earlier - HB 281 - provides for a less constitutionally suspect manner by which the state and municipalities can recover costs pertaining to convictions, and suggested that perhaps funds for the purchase of alcohol-offense-related equipment could be acquired via that legislation instead of HB 396.

REPRESENTATIVE COGHILL, referring to the APSC's administrative costs, asked what those entail.

MR. STAMBAUGH said that those costs include the cost of the instructors who provide training, and salaries for himself, his secretary, an administrative clerk, and a training coordinator; those costs do not, however, include the cost of officers' attendance at such training.

Number 1040

CHAIR ROKEBERG again asked whether it would be feasible to return surcharges directly to the communities from which they came, and suggested that perhaps the state could pay a small fee to the APSC to cover the administrative cost of collecting and allocating those surcharge monies.

MR. STAMBAUGH said he would have to consult with "our finance people [and] the court"; a lot of planning would have to go into that because of the need to track the collection of surcharges in each jurisdiction, and that would be difficult right now without the ACS having a new [tracking] system online.

CHAIR ROKEBERG suggested that perhaps the legislation could provide "that the municipality could do it - could make the collection."

MR. STAMBAUGH said that "on municipal charges, they can do that," but not for state charges.

REPRESENTATIVE COGHILL suggested that perhaps 90 percent of the surcharge proposed by HB 396 could be given back to the community that collects it, and the remaining 10 percent could go into the general fund.

CHAIR ROKEBERG remarked that that suggestion has merit; "we could even make it a local-option deal," which would provide an incentive to municipalities that actually use their own ordinances to prosecute.

REPRESENTATIVE OGAN noted that he has concerns with that idea because it would give law enforcement agencies an incentive "to make their quota."

CHAIR ROKEBERG pointed out that it would also take the heat off the state to pay for the judicial system. He likened the suggestion to: "revenue sharing with a twist." In response to a question from Representative Meyer, Chair Rokeberg mentioned that he would not be comfortable moving HB 396 out of the House Judiciary Standing Committee without knowing that the funds from the surcharges would "find the proper home."

MR. WELLER said that regardless of how the committee decides to allocate funds generated by HB 396, the committee may want to consider a new fund source because essentially HB 396 would collect money for a specific purpose and allocate it back. In conclusion he noted that the DPS supports the intent of HB 396.

CHAIR ROKEBERG announced that HB 396 would be held over.

CHAIR ROKEBERG called an at-ease from 2:37 p.m. to 2:39 p.m.

HJR 36 - CONSTITUTIONAL AMENDMENT : TAX CAPS

Number 0736

CHAIR ROKEBERG announced that the last order of business would be SPONSOR SUBSTITUTE FOR HOUSE JOINT RESOLUTION NO. 36, Proposing an amendment to the Constitution of the State of Alaska relating to limiting the rate of state individual income taxes and sales taxes.

Number 0641

REPRESENTATIVE ERIC CROFT, Alaska State Legislature, sponsor, opined that [SSHJR 36] is a bipartisan bill that everybody could and should support regardless of how they feel about any pending

tax proposals. He said that [SSHJR 36] should give everyone confidence that neither a state income tax nor a state sales tax will "grow above a certain rate." He explained that the main difference between the original version and the sponsor substitute of HJR 36 is that SSHJR 36 specifies that it pertain to an individual income tax rather than a corporate income tax. In addition, SSHJR 36 eliminates language stating how an income tax would be levied and focuses instead on the fact that a tax, regardless of how it is calculated, shall not exceed a certain rate.

REPRESENTATIVE CROFT noted that in members' packets is a handout highlighting that a tax cap is not a spending cap, although they are compatible and may aim for similar results - restraining state spending. He offered that a tax cap and a spending cap could be done together because there is nothing contradictory about them. He mentioned that Anchorage chose to adopt a tax cap on its "municipal tax levy" while still allowing for new construction and new property improvements. This combination provides an incentive to encourage new economic development, because new construction - new property additions - adds to the tax base and allows the municipality to provide police, fire [protection], roads, schools, and infrastructure for the population growth resulting from economic development.

REPRESENTATIVE CROFT, again referring to members' packets, said that it also includes charts detailing "where the 5 percent cap" proposed by SSHJR 36 would fall with regard to the sales tax rates and the income tax rates for various states, and a legislative research report by the Legal and Research Division of the Legislative Affairs Agency. He noted that the last page of this report states that the median U.S. sales tax rate is 5 percent, which is "our information as well about the high end of the income tax bracket; that is, if you impose this as a an income tax measure, you would be at about the median level in the U.S. currently for your top income tax bracket." Put another way, he said, SSHJR 36 would ensure that neither a sales tax nor an income tax would rise above the current U.S. average.

Number 0230

REPRESENTATIVE CROFT relayed that he developed the concept encompassed in HJR 36 after talking to a neighbor/constituent whose main concern did not pertain the initial rate of a tax, but rather on the fact that "they never seem to stop there: ... they grow and grow, and he did not want to see anything that had that unlimited nature to it." He mentioned that the main

support, both in-state and nationally, for tax caps of various types typically comes from conservative groups, many of which have resources on the Internet. In conclusion he said that he hopes that people will support the idea of a tax cap regardless of how they feel about the various tax proposals currently going through the legislative process.

CHAIR ROKEBERG asked: "Isn't it true that you are an advocate of having a, what I call, 'bundled fiscal plan?'" "How does this, because it has to be acted on by the voters and acted upon separately, fit into a bundle?"

REPRESENTATIVE CROFT said:

I think, personally, that we should enact a fiscal plan this session, and I'd prefer to do it in some whole way that comes close to filling, for now and the foreseeable future, the close to a \$1 billion gap that we have. I think it's only responsible that we do that though I know as well as anyone the political pain that will come with it. I think it's part of our responsibility, and for me it's worth that political pain - or even not getting elected the next election - to secure our future.

CHAIR ROKEBERG clarified that his question was whether Representative Croft felt that SSHJR 36 should be part of the bundle.

TAPE 02-22, SIDE A  
Number 0001

REPRESENTATIVE CROFT said he thinks that for those opposed to a fiscal plan, SSHJR 36 can be viewed on its own merits; the tax cap or the spending cap, individually or together, can be viewed as measures that allow people to feel more comfortable about any future tax proposals.

CHAIR ROKEBERG asked: "Doesn't this have to come to the floor as a separate matter and not be part of a bundle?"

REPRESENTATIVE CROFT said that according to his understanding, SSHJR 36 has to be considered separately, and no particular tax proposal could be tied to it, because of a provision in the Alaska State Constitution that prohibits "putting taxes up for a vote." "And if you say, 'These taxes only come in if a certain constitutional amendment comes in,' you're in effect having the

people vote on a tax," he noted. In response to a question, he said that the legislature is constitutionally prohibited from delegating its "taxing power."

CHAIR ROKEBERG asked if there were any [Alaska] Supreme Court cases that specify whether a tax could be instituted via the initiative process.

REPRESENTATIVE CROFT said he did not know, only that he thought there was a constitutional provision that states that the legislature cannot delegate its taxing power.

CHAIR ROKEBERG said that his point is that SSHJR 36 "can't be bundled."

REPRESENTATIVE CROFT concurred.

REPRESENTATIVE BERKOWITZ said that he disagrees. He elaborated:

Of course you can bundle it; the same way we bundle things all the time. But I think [that] properly it should be a separate subject than what we're doing for putting together a fiscal plan. ... It's my understanding, actually, that you can bundle passage of the resolution through both chambers, without requiring passage of the electorate. Nonetheless, I think that's a bad idea.

REPRESENTATIVE BERKOWITZ, in response to a question, said that when a resolution to amend the constitution passes through both bodies, it then goes to the public. He explained that this is different from passing the resolution and having the resolution be adopted and become an amendment; instead, it has to pass out of both houses - both bodies - before the people get a chance to vote on it.

Number 0292

REPRESENTATIVE OGAN recalled that a past proposed constitutional amendment regarding subsistence was tied to whether the Alaska National Interest Lands Conservation Act (ANILCA) was altered in specific ways. "So, I suppose we could bundle it," he acknowledged, noting, however, that Article IX, Section 1, of the Alaska State Constitution states: "The power of taxation shall never be surrendered. This power shall not be suspended or contracted away except as provided in this article."

REPRESENTATIVE CROFT surmised that this constitutional provision would not prohibit an amendment instituting a tax cap such as is proposed by SSHJR 36, which doesn't impose a new tax but only specifies when it stops. Additionally, he offered his belief that a new tax could not be instituted via the initiative process.

REPRESENTATIVE MEYER opined that although Representative Croft has compared SSHJR 36 to Anchorage's tax cap, it is not the same because property taxes are basically the only source of income for the Anchorage municipality; the tax cap in Anchorage ensures that property taxes will not "get out of hand," and thus also serves to limit spending. On the other hand, since [oil revenues] provide 80 percent of the state's revenue, even if a tax cap is instituted, revenues from other sources would not be restricted. He relayed that U.S. Senator Frank Murkowski has stated that either an income tax or a sales tax would hurt Alaska's economy, but has acknowledged that perhaps a seasonal sales tax might be acceptable. Representative Meyer asked Representative Croft how a seasonal sales tax would fit into SSHJR 36.

REPRESENTATIVE CROFT first clarified that he did not think that the Anchorage tax cap and the tax cap proposed by SSHJR 36 are identical. And although a lot of Anchorage's revenue comes from property tax, he noted, according to his information, about 40 percent of Anchorage's revenue is "nontax" revenue: fees, fines, grants, and forfeitures. Therefore, Anchorage's tax cap is not a spending cap; it is merely a tax cap on the most significant tax that Anchorage imposes. He also clarified that he is not portraying SSHJR 36 as a spending cap; "I said they do similar things, they do not do identical things." [A tax cap] has a generally constraining effect on spending but does not cap it; there could still be spending increases. A tax cap says to taxpayers that only a certain amount of revenue will be sought from their pockets. And although a spending cap has a generally depressing effect on tax increases, there could still be a spending cap in conjunction with very high tax rates.

Number 0737

REPRESENTATIVE CROFT again stated that although a tax cap and a spending cap can complement each other and have generally similar effects, they are not identical. He indicated that he would like to see SSHJR 36 advance to the House Finance Committee so that it can be compared with a proposed spending cap to see which makes more sense: to see whether people are

more worried, in general, about the absolute level of state spending or about how much a tax is and how far it goes. He reiterated his belief that everybody should be able to support SSHJR 36 regardless of how they feel about the implementation of statewide taxes. In response to Representative Meyer's question regarding a seasonal sales tax, Representative Croft said that SSHJR 36 would apply to that as well; "you're rate could not get any higher" than what is stipulated in SSHJR 36.

CHAIR ROKEBERG asked whether the cap on the sales tax would allow payment to vendors for collection fees, "which would be above the cap - or outside the cap" and which is common in a lot of states.

REPRESENTATIVE CROFT, after acknowledging that "it" is common in a lot of states, posited that the rate of sales tax levied by the state is the amount that the state gets and thus "would be after those deductions to the vendor." He added, though, that the committee may wish to clarify that issue further via an amendment or committee substitute.

CHAIR ROKEBERG indicated that he wanted to be sure that the language accommodated "those kind of surcharges."

REPRESENTATIVE CROFT agreed that it would be best to clarify that issue.

CHAIR ROKEBERG, referring to both SSHJR 36 and a 2001 1040 tax form, asked why "federal adjusted gross income" is used in the calculation, instead of "taxable income." He noted that the difference between those two figures includes itemized deductions from Schedule A [or] a standard deduction, and any exemptions allowed under the Internal Revenue Service (IRS) tax code. This means that exemptions for large families or home ownership would not be included in the calculation of a person's state income tax. He opined that this might result in some people paying between 6 percent and 30 percent, depending on deductions and exemptions.

Number 1024

REPRESENTATIVE CROFT explained that the vast majority of other states choose from among three different lines on the federal form upon which to base their state income tax. Some states use line 33, federally adjusted gross income; some states use line 39, taxable income after deductions and exemptions; and some states use line 58, the total tax owed. He indicated that

although each option has "various good arguments," his intention was to leave open for debate the issue of which option to use, and to this end, he simply chose the use of line 33 as a starting point for the discussion.

CHAIR ROKEBERG mentioned that that option also allows for changes to the IRS code.

REPRESENTATIVE CROFT went on to point out that language in SSHJR 36, starting on line 8, provides for an option other than use of line 33 on the federal form: "If the individual income tax is levied on any basis other than federal adjusted gross income, the total amount of tax collected statewide may not exceed what would have been collected if the tax rate had been five percent of federal adjusted gross income." He indicated that had the state collected an individual income tax this year, it would have raised about \$600 million based on line 33 of the federal form or about \$450 million based on line 39. He added that SSHJR 36, while still providing a tax cap, allows for changes to the IRS form and for the use of different lines on that form for calculation purposes.

REPRESENTATIVE BERKOWITZ asked Representative Croft whether he had "numbers that attach to 1 percent of adjusted gross, or what each percentage of adjusted gross [is] versus taxable income versus total tax?"

REPRESENTATIVE CROFT said that the deputy commissioner of the Department of Revenue, Larry Persily, gave him numbers that indicate that in order to raise about \$400 million, the income tax rate would have to be 3.13 percent if it were based on gross income, 4.34 percent if it were based on taxable income, and just under 22 percent if it were based on federal tax liability. Adding that he would have to research whether "on higher ends these ratios still work out," he explained that these ratios indicate roughly that 1 percent of adjusted gross income equals either 1.4 percent of taxable income or 7 percent of tax liability. In response to a question he said that 5 percent of adjusted gross income would equal [7] percent of taxable income.

Number 1247

CHAIR ROKEBERG asked Representative Croft why he picked a tax cap of 5 percent instead of 4 percent, for example.

REPRESENTATIVE CROFT indicated that the idea of using 5 percent originally occurred to him because of discussions on another

constitutional amendment pertaining to using 5 percent of the market value of the permanent fund. He said that he then learned that the national median sales tax rate is 5 percent, as is "the median top rate of income tax in the states that have income tax." He said that from a couple of different angles, 5 percent works as a number above which he didn't want the tax rate to rise.

CHAIR ROKEBERG mentioned that a concept proposed by Representative Carl Moses for several years regarding tax credits for property taxes paid within the state shows enormous value. He asked Representative Croft whether SSHJR 36 would allow such a tax credit.

REPRESENTATIVE CROFT said that SSHJR 36 would allow for such a tax credit, adding that the only limitation would be that "it could not raise more money than one that was 5 percent and based solely on federal adjusted gross income." He mentioned that as long as the calculation used does not exceed the tax cap, it would be acceptable.

REPRESENTATIVE BERKOWITZ noted that according to a conversation he had with [economist] Scott Goldsmith:

Raising \$1 in sales tax, 93 cents comes from Alaskans; raising \$1 from the permanent fund dividend, 86 cents comes from Alaskans - and you get federal tax linkage; and raising income tax dollars, 75 cents comes from Alaskans, because it's an efficient way of getting nonresident workers, plus we're allowed to deduct it from our federal taxes.

REPRESENTATIVE COGHILL remarked that he'd heard this same information just the other day.

REPRESENTATIVE BERKOWITZ said he would provide those specific numbers to members for future debates.

CHAIR ROKEBERG announced that SSHJR 36 would be held over.

#### **ADJOURNMENT**

Number 1502

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 3:11 p.m.