

ALASKA STATE LEGISLATURE
HOUSE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE

March 29, 2005

8:14 a.m.

MEMBERS PRESENT

Representative Kurt Olson, Co-Chair
Representative Bill Thomas, Co-Chair
Representative Gabrielle LeDoux
Representative Sharon Cissna
Representative Woodie Salmon

MEMBERS ABSENT

Representative Pete Kott
Representative Mark Neuman

COMMITTEE CALENDAR

HOUSE BILL NO. 28

"An Act relating to the municipal dividend program; and providing for an effective date."

- HEARD AND HELD

HOUSE BILL NO. 36

"An Act making an appropriation for the state revenue sharing program and the safe communities program at fiscal year 1998 levels, as adjusted for inflation, to provide for public safety and other municipal services; and providing for an effective date."

- HEARD AND HELD

HOUSE BILL NO. 2

"An Act relating to taxes regarding certain commercial passenger vessels operating in the state; and providing for an effective date."

- HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 28

SHORT TITLE: MUNICIPAL DIVIDEND PROGRAM

SPONSOR(S): REPRESENTATIVE(S) MOSES

01/10/05 (H) PREFILE RELEASED 12/30/04
01/10/05 (H) READ THE FIRST TIME - REFERRALS
01/10/05 (H) CRA, STA, FIN
03/29/05 (H) CRA AT 8:00 AM CAPITOL 124

BILL: HB 36

SHORT TITLE: APPROP: MUNI REVENUE SHARING/SAFE COMM
SPONSOR(S): REPRESENTATIVE(S) KAPSNER, GARA, GUTTENBERG

01/10/05 (H) PREFILE RELEASED 12/30/04
01/10/05 (H) READ THE FIRST TIME - REFERRALS
01/10/05 (H) CRA, FIN
03/29/05 (H) CRA AT 8:00 AM CAPITOL 124

BILL: HB 2

SHORT TITLE: TAX ON COMMERCIAL VESSEL PASSENGERS
SPONSOR(S): REPRESENTATIVE(S) GATTO

01/10/05 (H) PREFILE RELEASED 12/30/04
01/10/05 (H) READ THE FIRST TIME - REFERRALS
01/10/05 (H) CRA, TRA, FIN
03/29/05 (H) CRA AT 8:00 AM CAPITOL 124

WITNESS REGISTER

ADAM BERG, Staff
to Representative Carl Moses
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Presented HB 28 on behalf of the sponsor,
Representative Moses.

KEVIN RITCHIE, Executive Director
Alaska Municipal League (AML)
Juneau, Alaska
POSITION STATEMENT: During discussion of HB 28, discussed
property taxes in Alaska.

REPRESENTATIVE MARY KAPSNER
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Testified on HB 28 and spoke as the sponsor
of HB 36.

KATHIE WASSERMAN
Alaska Municipal League

Juneau, Alaska

POSITION STATEMENT: During discussion of HB 28, related the plight of small communities, and testified in support of HB 36.

REPRESENTATIVE DAVID GUTTENBERG

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 36.

BOBBY ANDREW, President

Aleknagik Natives Limited

Aleknagik, Alaska

POSITION STATEMENT: Testified on HB 36.

BILL ROLFZEN, State Revenue Sharing Municipal Assistance

Division of Community Advocacy

Department of Commerce, Community, & Economic Development

Juneau, Alaska

POSITION STATEMENT: During discussion of HB 36, answered questions.

REPRESENTATIVE CARL GATTO

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Spoke as the sponsor of HB 2.

CODY RICE, Staff

to Representative Carl Gatto

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Presented HB 2 on behalf of the sponsor, Representative Gatto.

ACTION NARRATIVE

CO-CHAIR KURT OLSON called the House Community and Regional Affairs Standing Committee meeting to order at [8:14:15 AM](#). Representatives Olson, Thomas, LeDoux, and Cissna were present at the call to order. Representative Salmon arrived as the meeting was in progress.

HB 28-MUNICIPAL DIVIDEND PROGRAM

CO-CHAIR OLSON announced that the first order of business would be HOUSE BILL NO. 28, "An Act relating to the municipal dividend program; and providing for an effective date."

8:14:32 AM

ADAM BERG, Staff to Representative Carl Moses, Alaska State Legislature, explained that HB 28 proposes giving every incorporated municipality in the state an amount of money based on the municipality's population. The intent, he relayed, is to empower local officials by allowing them to decide how best to spend the money within their community. He explained that the dividend is \$250 per person with a minimum payment of \$40,000 per municipality. Boroughs would also receive a dividend based on the total population of the borough minus the total population of incorporated municipalities within the borough. The money will come from the earnings reserve account, and only after permanent fund dividends have been accounted for and inflation-proofing has taken place. In the event the earnings reserve account is less than the municipal dividend payments, municipal dividends would be reduced on a pro rata basis.

8:16:35 AM

KEVIN RITCHIE, Executive Director, Alaska Municipal League (AML), opined that key components of this issue are the shift away from local services, local issues, and economic development over the last 10 years. The aforementioned came to a head with the elimination of revenue sharing last year. Next year at this time, as the facts indicate, there will be half the small cities that there are this year. Although these small communities are poor, they have been in existence for thousands of years and a higher standard of living has developed such that some public safety is expected as is the ability to fly or drive out of the community. However, those services are being lost and the smaller city population will migrate to the larger communities. Those larger communities are losing their ability to address problems. In fact, Alaska has some of the highest property taxes and some of the highest total local taxes in the nation. Mr. Ritchie then referred to a handout entitled, "Status Update (3/1/05) Municipal Governments (DCCED Division of Community Advocacy)," which provides a summary of what is happening in Alaska's small cities. He pointed out that the committee packet should also include letters from many of the impacted communities. The green sheet entitled, "Local Government Issue Paper" details property tax increases since 1986 as provided by the state assessor, and illustrates the correlation between property taxes and state funding. He noted that the committee packet should also include a document that provides a comparison of local taxes nationwide and in Alaska. One of the most

significant pieces of information is that Anchorage's property taxes rank 17th in the nation in 2003, while on a per capita basis the tax revenues in Anchorage ranked 31st in per capita taxation in Alaska.

MR. RITCHIE then highlighted that one of the major factors for rising taxes in communities is the fact that the state hasn't fulfilled its statutory obligation to reimburse municipalities for the senior citizen and disabled veteran property tax exemption. In summary, Mr. Ritchie stated that what the legislature does this year could save half of the small communities of the state. The economy of the state is largely dependent upon the commerce between small and large communities.

[8:23:29 AM](#)

REPRESENTATIVE LEDOUX asked if Mr. Ritchie meant to say that Alaska has some of the highest local taxes in the nation.

MR. RITCHIE replied yes.

REPRESENTATIVE LEDOUX pointed out that the chart provided by Mr. Ritchie specifies that while property taxes are ranked 17th, when one considers [all taxes] Anchorage is ranked 50th.

MR. RITCHIE acknowledged that the chart covers state and local taxes throughout the nation. He highlighted that Alaska is the only state without state taxes. The significance of having really high property and local taxes is in comparison with other states, which provide significant sharing of revenues with their communities. Furthermore, when any one tax is skewed, even more of the competitive edge with the country is lost.

[8:25:14 AM](#)

REPRESENTATIVE CISSNA inquired as to why the [state] would want smaller communities. She said she wasn't surprised with Mr. Ritchie's testimony as she observed the problems small communities face in her visits to small communities over the interim. From all these, she has realized that what the legislature does has an impact. She characterized this legislation as good. She then indicated the need to know why incentives are necessary for small towns and why small towns are important to the state. Representative Cissna turned attention to her own district, which is the core of the health services in the state, including many of the institutions of last resort. Those institutions reported a huge influx. For example, one

agency reported an increase in consumers in the amount of 3,000. Such an influx begins to erode capacity, which in turn impacts quality and causes costs to increase. Representative Cissna emphasized the need for the state to have policies that maintain stability. She said that revenue sharing is important to have in attempting to keep health care costs in line. She indicated that perhaps [the plight of small communities] is related to [health care costs].

[8:29:35 AM](#)

MR. RITCHIE said that he would address the value of "small cities to small cities" and to Alaska as a whole. In Alaska, nearly all of the very small rural communities are poor and have a rich cultural history. In the past 50 years, revenue sharing and other programs have allowed these small communities to have an acceptable level of services such as public safety, law enforcement, and transportation. However, the quality of life in these small communities is diminishing to the point that residents are moving out. He highlighted [an Institute of Social and Economic Research (ISER) study entitled, "Status of Alaska Natives 2004"], which states: "Out-migration of Alaska Natives from their homes in rural Alaska has accelerated over the last 30 years. In the last decade, 11,011 Alaska Natives (nearly 10% of the rural population) migrated to urban areas." With regard to the value these small communities have to the state, he related that about one out of five jobs in urban areas sell items to other areas of the state. An estimated 20 percent of the jobs in urban areas serve other parts of the state. Mr. Ritchie pointed out that poor small communities are magnets for federal funds that aren't available otherwise. If many small communities are lost or shrink to the point of being nonviable communities and more people move into urban areas, the urban areas lose some of the jobs that serve the rural areas.

[8:33:13 AM](#)

REPRESENTATIVE LEDOUX pointed out that many small communities aren't municipalities and are operated through tribal governments. She surmised that this municipal dividend doesn't include tribal governments, although they have the same financial problems [as municipalities].

MR. RITCHIE said that he isn't competent to speak to the funding of tribes, which have a different funding stream than municipalities. However, he said that there is so little money in much of rural Alaska and thus if the tribal government or the

municipal government doesn't work together, there are serious impacts on the quality of life in the community. He noted that those communities that have no municipal government at all, and in some cases have no tribe either, are part of the legislature's unorganized borough, to a large extent. "I think the legislature as a whole would be well-served to look at all communities and what could be done to assist them," he opined.

8:35:00 AM

CO-CHAIR THOMAS referred to the document entitled "Status Update (3/1/05) Municipal Governments", which specifies that these small communities struggling with financial situations have made significant reductions to core services, including the closure of washeterias. He asked if some communities provide washeterias for the community.

MR. RITCHIE replied yes, and clarified that sometimes the washeterias are run through a local health organization or a municipality. He explained that if there's no running water or sewer in a community, the washeteria becomes a center for washing clothes, washing oneself, and obtaining water.

8:35:56 AM

REPRESENTATIVE MARY KAPSNER, Alaska State Legislature, interjected that many small communities run the local water and sewer plant to which the washeteria/laundromat is often attached. Many communities, she related, believe washeterias fall under the realm of public health. For instance, before there were washeterias it would have been almost impossible to stop a lice outbreak. She explained that traditionally [many of these small rural communities] had steam baths, but now, with more antibiotics being prescribed, bacteria that is more difficult to kill is surfacing. For example, steam bath boils are being transmitted and the steam bath has to be burned to eliminate the bacteria. Therefore, the washeterias are becoming more important [in these small rural communities].

8:37:36 AM

CO-CHAIR THOMAS related that he lives in a community that's economically depressed. He related that three of his five children have left Alaska because of the lack of jobs in Southeast. Although people strive to obtain an education, that education can't be used in [the small rural community] and thus those individuals migrate.

MR. RITCHIE noted that in many Southeast communities when a major industry closes, the community struggles to recreate itself. However, when the initial wave of residents leave [due to the closure of a major industry] the infrastructure remains, which results in higher taxes or lower services. The aforementioned could cause others, who don't really want to leave, to do so. Therefore, the elimination of revenue sharing and avoidance of the Public Employees' Retirement System (PERS) and Teachers' Retirement System (TRS) issue pushes communities down further.

8:40:10 AM

CO-CHAIR THOMAS recalled that when fishing was the hot industry and fishing prices dipped, people [in small rural villages] turned to logging, which also ultimately faced a downturn.

8:41:06 AM

REPRESENTATIVE SALMON pointed out that HB 28 is similar to [HB 49]. As funds are taken away from these small communities, people have to move to the urban areas. The villages that really need funds aren't even on the list included in the committee packet. Tribal communities are still part of Alaska, he emphasized. He further emphasized the need to look at this problem [throughout] the whole of Alaska because the smaller communities are part of [Alaska's economic] formula. He echoed earlier testimony regarding the fact that resource-based industries, such as fish, timber, and fur, are diminishing.

8:44:03 AM

KATHIE WASSERMAN, Alaska Municipal League, recalled her experience as mayor the of one of these small communities, and opined how it's virtually impossible to operate a small community. She related the diminished services that Pelican has experienced and the difficulty in taking care of a small community to which no money is entering. Although every entity, small community, and state may not operate wisely all the time, it doesn't mean it should be cut. With regard to the governor's recent comments at the Southeast Alaska Conference at which he related that life is good in Alaska, Ms. Wasserman opined that [the aforementioned view] is all about one's location. She questioned what business will want to enter a community without [basic] services. These communities, she opined, need the tools to build themselves back up to viable communities.

[8:47:27 AM](#)

CO-CHAIR THOMAS remarked that he didn't like revenue sharing legislation because such legislation doesn't provide funds to the unorganized municipalities. He estimated that about 80 percent of Alaska's wealth is from the oil royalties from outside the urban areas. Furthermore, the impacts of [the industries producing those royalties] are felt in those [rural areas]. He characterized the oil industry and the wealth it brings as an asset that all Alaskans should share. He concluded by echoing Representative Salmon's comment that the unorganized municipalities should receive their share.

[8:49:05 AM](#)

REPRESENTATIVE CISSNA asked if the sponsor has thought about ways to expand the impacted population.

MR. BERG said that subject has come up. Mr. Berg related that Representative Moses is open to amendments that would include unincorporated areas. However, the legislature has [encouraged] the organization of communities. Therefore, the unincorporated areas aren't included in this legislation because [the sponsor] believes it's important to get these communities help. Whatever [legislation helping communities] can make it through the legislature is what the sponsor desires, he related. If including unincorporated areas kills the legislation, then no one would be helped.

[8:50:56 AM](#)

CO-CHAIR THOMAS recalled that under the old municipal revenue sharing, everyone shared the funds.

MR. BERG reiterated that the sponsor is open to include unorganized areas so long as it's backed by the will of the legislature.

CO-CHAIR THOMAS surmised that allowing the funds to go to unorganized areas would dilute the total allocation to each community.

MR. BERG suggested that the committee could increase the allocation. He reiterated that the desire is to provide as much help as possible to as many communities as possible.

[8:52:44 AM](#)

REPRESENTATIVE SALMON pointed out that out of the 95 villages in District 6, 72 villages are not on list of those that will receive funds under HB 28. Therefore, he questioned what to tell those villages. He opined that he would rather not see any money go out [to any area], if those 72 villages aren't included.

MR. BERG reiterated that the sponsor is open to amendments to HB 28. The desire is to provide help to all the communities [possible], but the sponsor wants to have legislation that will pass through both bodies. He also reiterated that if the political will is there to take care of the unorganized areas as well, the sponsor is supportive of that.

[8:55:04 AM](#)

REPRESENTATIVE CISSNA interjected that [the state/legislature] has eliminated help to communities in many other ways beyond revenue sharing. If [the legislature] doesn't act soon, she opined that the nature of Alaska will change. Therefore, Representative Cissna said that she would like to see the committee do something with HB 28.

[8:56:01 AM](#)

CO-CHAIR OLSON announced that the committee would not take action on HB 28 today.

HB 36-APPROP: MUNI REVENUE SHARING/SAFE COMM

CO-CHAIR OLSON announced that the next order of business would be HOUSE BILL NO. 36, "An Act making an appropriation for the state revenue sharing program and the safe communities program at fiscal year 1998 levels, as adjusted for inflation, to provide for public safety and other municipal services; and providing for an effective date."

[8:56:23 AM](#)

REPRESENTATIVE MARY KAPSNER, Alaska State Legislature, sponsor, began by noting her disappointment that HB 28 didn't move out of committee because it's a long-term fix [for the revenue sharing and safe communities programs], while HB 36 is a one-year fix. She explained that HB 36 would reinstate municipal assistance and revenue sharing at fiscal year (FY) 1998 levels. The 1998

levels were chosen because it was during a more fiscally conservative time that also recognized the important role that municipalities play in the delivery of services to all Alaskans. Representative Kapsner informed the committee that currently staffing at the small community level is skeletal. If no one is present to open mail, then no one is there to receive the notices regarding federal grants for which they could apply. She reviewed the services provided by communities. Representative Kapsner highlighted that this legislation acknowledges the constitutional obligation to provide certain services, such as public safety, public health, education, and transportation. Whether the services are delivered through the state or local level, these constituents have to be served. The choice is whether to have the municipalities close and shift the responsibility back to the state with line item appropriations. Representative Kapsner pointed out that while an increase in the price of oil is good for the state, it's not good for consumers, municipalities, and small communities. Representative Kapsner related that she had looked forward to this session because she hadn't anticipated the fighting over pennies, but rather had expected that there would be more generosity of spirit and an understanding that municipalities are hitting hard times.

[9:01:19 AM](#)

REPRESENTATIVE LEDOUX turned attention to Table 2 in the January 2005 Legislative Research Service Report, which lays out the revenue sharing distribution to unincorporated communities. She noted that none of the seven unincorporated communities in her district are listed in Table 2.

REPRESENTATIVE KAPSNER reminded the committee that this table refers to the 1998 allocation. She offered to research why those communities weren't receiving the appropriation in 1998.

REPRESENTATIVE LEDOUX surmised that those seven communities didn't receive municipal revenue sharing because they are unincorporated communities within an incorporated borough. However, she said she didn't see any reason to distinguish between unincorporated and incorporated communities within a borough.

REPRESENTATIVE KAPSNER recalled that in 1996, because of a Senate initiative, the contribution to unincorporated communities was ratcheted down. For further information, she deferred to Mr. Rolfzen with DCCED.

[9:03:23 AM](#)

CO-CHAIR THOMAS inquired as to why Metlakatla received zero in municipal revenue sharing. He then turned to the municipalities on the 1998 list, and informed the committee that Gustavus has re-filed for second class city status and it's not on the list, which is the case with other communities as well. Co-Chair Thomas said that he didn't realize that it takes two to three years to be recognized as a municipality. He expressed the need to provide incentives for communities to organize.

[9:05:07 AM](#)

KATHIE WASSERMAN, Alaska Municipal League (AML), commented that although some say that the state is in good shape and making money, the smaller communities don't seem to be benefiting. She highlighted the rising costs for fuel, insurance, and PERS as well as the loss of capital grants, revenue sharing, and reimbursement of the senior and veteran tax, all of which make it difficult for these [smaller communities]. She concluded by relating AML's support for HB 36.

[9:06:50 AM](#)

REPRESENTATIVE DAVID GUTTENBERG, Alaska State Legislature, spoke in support of HB 36. He reviewed the erosion of funds for areas throughout the state. Representative Guttenberg opined that since the state is receiving higher oil revenues, it should pass some [of that revenue] on to the communities. He pointed out that many communities have no sustaining sources of income. He echoed earlier testimony regarding the lack of local staffing and the difficulties it creates. Representative Guttenberg opined that it's key for the state to recognize its responsibility to give back to communities, which he characterized as most efficient because when things fall apart, they find their way to the legislature. "Maintenance of dollars will prevent that," he opined.

[9:10:24 AM](#)

BOBBY ANDREW, President, Aleknagik Natives Limited, informed the committee that the Village of Aleknagik signed a memorandum of understanding (MOU) October 29, 2000, to address village issues, especially in the face of declining revenues coming in to the village. Once HB 36 passes, it will help those villages that don't have a tax base. He pointed out that most of the lands [in many of the villages] are town sites or Native allotments.

He informed the committee that the main offices of many of the regional corporations are located in urban areas. He emphasized that there are many needs in the Village of Aleknagik, such as improving the water and sewer systems. This legislation would assist the village. In fact, [the assistance provided by this legislation] could help with the matching dollars that some of the programs for which communities apply. The [Village of Aleknagik] is fortunate to be able to utilize [some funds] from the Bristol Bay Economic Development Corporation.

[9:13:20 AM](#)

REPRESENTATIVE KAPSNER inquired as to with whom the Village of Aleknagik's MOU was.

MR. ANDREW answered that the MOU is between Aleknagik Natives Limited, the Aleknagik Traditional Council, and the City of Aleknagik. He informed the committee that the aforementioned organizations meet quarterly. At a recent meeting, a resolution in support of HB 36 was passed.

[9:14:22 AM](#)

CO-CHAIR OLSON announced that all three municipal assistance bills would be back before the committee next week.

[9:15:01 AM](#)

BILL ROLFZEN, State Revenue Sharing Municipal Assistance, Division of Community Advocacy, Department of Commerce, Community, & Economic Development (DCCED), informed the committee that the revenue sharing program was revised in 1980 to the current statutory program, which only provides funding to unincorporated areas within organized boroughs. Therefore, that was followed in HB 36. With regard to the communities such as Gustavus not being on the lists, the data used is from the end of fiscal year 2004, prior to the governor's veto. If this legislation is enacted, the information would be updated. With regard to the community of Metlakatla, it, under revenue sharing, received funding as an unincorporated community; under safe communities, it received funding as a municipality; and under capital matching grants it received funding as an unincorporated entity.

[9:16:23 AM](#)

REPRESENTATIVE CISSNA pointed out that the City of Gustavus is listed on Table 2.

MR. ROLFZEN clarified that in 2004 Gustavus was an unincorporated community, but now it's a city government.

CO-CHAIR THOMAS commented that the amount of money a community receives is dependent upon how it's organized.

[HB 36 was held over.]

HB 2-TAX ON COMMERCIAL VESSEL PASSENGERS

The committee took an at-ease from [9:17:38 AM](#) to [9:26:45 AM](#)

CO-CHAIR OLSON announced that the final order of business would be HOUSE BILL NO. 2, "An Act relating to taxes regarding certain commercial passenger vessels operating in the state; and providing for an effective date."

[9:26:53 AM](#)

CO-CHAIR THOMAS moved to adopt CSHB 2, Version 24-LS0003\G, Kurtz, 2/17/05, as the working document. There being no objection, Version G was before the committee.

[9:27:07 AM](#)

REPRESENTATIVE CARL GATTO, Alaska State Legislature, sponsor, explained that this legislation simply reimburses the state for a portion of the expenses that are incurred due to the presence of a certain industry.

[9:28:29 AM](#)

CODY RICE, Staff to Representative Carl Gatto, Alaska State Legislature, presented a PowerPoint presentation, which began by addressing the ability of the cruise ship industry to pay these taxes. Mr. Rice highlighted statements by the senior vice president of Royal Caribbean Cruises Ltd. regarding the impact of taxes on the cruise ship industry as well, as a Juneau Empire news article dated 5/19/03, which reported a lawsuit against [Royal Caribbean Cruises, Ltd.] for fraudulent head taxes. The aforementioned suit was ultimately settled out of court for \$125 million in cruise vouchers. Mr. Rice then related 2004 financial data, which will be updated soon, although the information seems to be in line with 2005 annual reports. For

instance, the net profit for Carnival this year is up 53-56 percent and the net income for Royal Caribbean Cruises [is up] 66 percent. He then turned attention to a Juneau Empire article, which relates that people are still cruising although prices for cruises have risen, on average, 20 percent. Yet, testimony in the House Finance Committee [from Charlie Ball, President of Princess Lines] related that a \$50 increase on a \$1,200 package would be a significant increase.

MR. RICE then pointed out an actual brochure for Mexican cruise, which specifies government fees totaling approximately \$191.26 per person. The legislation before the committee proposes a \$50 per person tax that is only applicable once in 30 days. He then turned attention to the slide in his PowerPoint that related Carnival Cruise Lines revenues, which he related would be updated over the next few days. He noted that on the aforementioned slides and others the timeframe between 2003 and "2003-b" refers to one quarter of 2003. He highlighted that although around September 11, 2001, there was a dip in profits, Carnival Cruise Lines responded fairly well, particularly in light of the fact that it and Royal Caribbean were building a significant amount of ships. Mr. Rice moved on to the chart specifying the number of passengers Carnival Cruise Lines carried from 1995-2003, which specifies the companies 500 percent growth in the number of passengers carried, with a significant amount of that growth occurring between 2001-2003. He informed the committee that Carnival Cruise Lines increased its total number of ships from just over 40 to over 70 ships between 2002-2003. He noted that part of that was due to Carnival Cruise Lines acquisition of Princess tours.

MR. RICE highlighted that the cruise ship industry does contribute to charities in Alaska in the amount of more than \$500,000 a year and pays \$844,750 to DEC for air and water quality monitoring. However, [the charge for air and water quality monitoring] is just less than \$1.00 per passenger. He then turned the committee's attention to a table entitled, "Costs Attributable to the Cruise Ship Industry as Determined by OMB and the Department of Revenue," which was created last year in relation to House Bill 537, the governor's tourism tax. The chart outlines the costs potentially attributable to the cruise ship industry's presence in Alaska, which amounts to approximately \$115 million in costs to the state.

[9:36:05 AM](#)

CO-CHAIR THOMAS pointed out that the chart specifies that about \$60 million [of that \$115 million] comes from airports, although there is no airport head tax. Therefore, although those might be tourism dollars, they wouldn't be from the cruise ship industry.

MR. RICE said that he's not an accountant, and therefore he couldn't speak to the process behind this table. However, he related his understanding that the assumption was that most cruise ship passengers do use one or more of the major airports because most passengers cruise one way and fly one way. Therefore, there is some usage of airports by cruise ship passengers.

[9:37:14 AM](#)

REPRESENTATIVE GATTO related his understanding that airport security systems are designed around peak loads and some portion of the peak loads are attributable to tourists who arrive on a cruise ship and fly home. "And so they've proportioned the amount that the airport had to, essentially, have in place as that amount that is attributable only to this group of people [cruise ship passengers]."

[9:38:09 AM](#)

MR. RICE turned to the final issue of legality, in particular how it relates to the Maritime Transportation Security Act (MTSA). The MTSA specifies that only reasonable fees charged on a fair and equitable basis can be charged and can only be "used solely to pay for the cost of a service to the vessel or watercraft; enhance the safety and efficiency of interstate commerce; do not impose more than a small burden on interstate or foreign commerce." Version G reiterates much of that language with regard to how the state will distribute those funds. He informed the committee that the disposition of receipts is modeled after the Cruise Ship Initiative because it's substantial and similar and falls in line with Attorney General Renkes' opinion. He pointed out that the committee packet should include an October 6, 2003, memorandum from the attorney general regarding legal questions. He quoted the following excerpt from the aforementioned memorandum: "While there are limitations imposed by federal law on the purposes for which the excise tax in section 1 of the proposed bill can be used, it would be a mistake to interpret this federal restriction as creating a dedicated fund." Mr. Rice explained that current legislation has a subaccount to meet the standards

required in the MTSA, the receipts are placed in the subaccount and are used to pay the \$5 a port fee at the first five ports. He noted that there is also a regional subaccount of which 25 percent of the receipts will cover the costs of regional areas that may or may not necessarily be a port, but still be impacted by the cruise ship industry. The remainder is placed in the state GF for usage only on such projects as enhanced safety and efficiency of interstate commerce. Mr. Rice acknowledged that there is the question as to whether the subaccounts create a dedicated fund by state standards. An attorney general opinion in 2003 specified that while the subaccounts did satisfy federal standards for creating a dedicated fund, they didn't violate state standards for creating a dedicated fund.

[9:41:53 AM](#)

REPRESENTATIVE GATTO returned attention to the PowerPoint slide entitled, "Issues for Discussion." He highlighted that the cruise ships are enormously profitable. However, the cruise ships continually say that any \$50 tax would hurt business, although the facts haven't borne that out. He related that passenger interviews have shown that most passengers shrug off a \$50 tax because taxes in other places are substantially more. For instance, when one cruises to Mexico, the port fees are about \$150, which amounts to about \$50 per port. However, the proposal in HB 2 would charge a fee of \$50 for the first five ports in Alaska. The current contributions to the state are essentially zero. With regard to the cruise ship industry's ability to continue to prosper in Alaska, Representative Gatto pointed out that Alaska is a primary destination. Fully 10 percent of [cruise passengers] come to Alaska, which he opined would continue to increase for some time. In fact, the building of ships wouldn't continue unless the prospects of filling those ships was clear and convincing. With regard to the illegality of [a tax such as that proposed in HB 2], he said that's not a decision that can be made in committee or can be made by the cruise ship industry; "that's why we have a court system." He indicated that [whether the tax is illegal] isn't of concern [for the committee] unless the statute clearly specifies that cruise ship taxes, in any form, are illegal. Representative Gatto said his concern is that if the Department of Revenue projections are correct, the state is already spending a certain amount of money to support the cruise ship industry. However, the argument [of the department] is that it doesn't like targeted taxes, although the taxes on mining, timber, tourism, and oil and gas are such. Representative Gatto said that he is at a loss to find a non targeted tax. The cruise ship industry

has said it would support a sales tax and an income tax for the state, which he opined is because they don't pay any part of those. The idea [with HB 2], he stressed, is to recover a portion of the state's costs on behalf of the cruise ship industry.

[9:48:08 AM](#)

REPRESENTATIVE LEDOUX inquired as to whether any other states have cruise ship taxes.

REPRESENTATIVE GATTO answered that Hawaii does. He informed the committee that Bermuda, Jamaica, and the Virgin Islands also charge cruise ship taxes. Representative Gatto also informed the committee of the cruise ship industry's ability to do the practice of "port pulling," which the community of Whittier experienced with its minimum tax. However, this legislation collects a certain amount of money up-front and distributes it to the first five ports, and thus the ports aren't left in the "wing." Representative Gatto opined that Alaska provides the cruise ships arguably the most beautiful scenery in the world for free and they sell it. He indicated that if other industries in the state are going to be taxed, then it's only fair to [tax the cruise ship industry]. "And if you're really worried about the legality, let's concentrate on the legality question in the courts," he opined.

[9:51:25 AM](#)

REPRESENTATIVE LEDOUX restated her question as to whether any other states have head taxes and if so, have they met constitutional challenges.

MR. RICE answered that he isn't aware of any other states that have head taxes. However, discussions with the drafter of the MTSA provision and the Legislative Legal and Research Division attorneys have viewed the MTSA as so broad that it invalidates quite a few existing taxes, such as riverboat taxes and individual port taxes in Florida and Hawaii. Mr. Rice said that most other states don't have a statewide head tax, which he opined is fitting in relation to the size and number of ports.

[9:52:47 AM](#)

MR. RICE, in response to Representative LeDoux, specified that whether [a tax] meets MTSA clauses depends upon how the receipts are spent. If the receipts aren't spent solely on costs

attributable to the vessel and to enhance the safety and efficiency of interstate commerce, then it doesn't meet the MTSA. This legislation, he opined, would meet the aforementioned standards and require the legislature to appropriate receipts only in ways that meet those standards.

REPRESENTATIVE GATTO informed the committee that a lot of shipping occurs in San Pedro, California, besides cruise ships. Therefore, San Pedro already has its infrastructure in place to handle large vessels. However, if it weren't for the cruise ships, Alaska wouldn't have a need for large vessels and thus an infrastructure has to be constructed to accommodate the only large vessels arriving in the state.

[9:54:22 AM](#)

CO-CHAIR THOMAS turned to the notion that Juneau is the impacted community, and pointed out that those coming in from other Southeast communities are fairly well displaced when they come to shop in Juneau. With regard to the impact funds that can be given to municipalities, Co-Chair Thomas opined that the funds should go to those communities outside of the port.

[9:55:35 AM](#)

REPRESENTATIVE CISSNA surmised that Co-Chair Thomas was referring to the impact on communities to which the cruise ship industry decides not to visit. However, she questioned whether the money [from the cruise ship industry] makes up for the expense of the port facilities.

REPRESENTATIVE GATTO informed the committee that the cruise ship industry has categorized Juneau as a must see, and therefore it doesn't matter how much money Juneau charges the cruise ships because the industry won't bypass Juneau. The concern, he related, is in regard to the other communities [that aren't must see stops]. He highlighted that the subaccounts will take care of those impacted communities.

MR. RICE explained that 25 percent of [head tax] receipts are placed in a regional subaccount, which is specifically designed to go to those communities impacted although they may not be a port of call. The aforementioned happens so long as the money is used to meet the safety and efficiency of interstate commerce.

[9:57:59 AM](#)

CO-CHAIR THOMAS highlighted the graph specifying the \$60 million in impacts of [the Interior], which would result in funds being generated in Southeast and sent to Fairbanks and Anchorage.

MR. RICE said that he can't predict where future legislatures will send the money.

[9:58:54 AM](#)

REPRESENTATIVE SALMON recalled that over the past couple of years those in Fairbanks have complained that there aren't enough tourists. He opined that a \$50 head tax will impact those up north and thus that should be reviewed. He said that tourists shouldn't be taxed to the point of not wanting to come to Alaska.

[10:00:19 AM](#)

CO-CHAIR OLSON announced that HB 2 would be held over.

ADJOURNMENT

There being no further business before the committee, the House Community and Regional Affairs Standing Committee meeting was adjourned at [10:00:31 AM](#).