

ALASKA STATE LEGISLATURE
HOUSE SPECIAL COMMITTEE ON ECONOMIC DEVELOPMENT, INTERNATIONAL
TRADE AND TOURISM

February 5, 2008
11:10 a.m.

MEMBERS PRESENT

Representative Mark Neuman, Chair
Representative Carl Gatto
Representative Kyle Johansen
Representative Mike Doogan

MEMBERS ABSENT

Representative Wes Keller
Representative Bob Lynn
Representative Andrea Doll

COMMITTEE CALENDAR

PRESENTATION: DEPARTMENT OF REVENUE UPDATE ON THE COMMERCIAL
PASSENGER VESSEL TAX PROGRAM

- HEARD

PREVIOUS COMMITTEE ACTION

No previous action to report

WITNESS REGISTER

JOHANNA BALES, Deputy Director
Tax Division
Department of Revenue
Anchorage, Alaska

POSITION STATEMENT: Presented the Update on the Commercial
Passenger Vessel Tax Program on behalf of the Department of
Revenue (DOR).

ACTION NARRATIVE

CHAIR MARK NEUMAN called the House Special Committee on Economic
Development, International Trade And Tourism meeting to order at
[11:10:32 AM](#). Representatives Gatto, Johansen, and Neuman were

present at the call to order. Representative Doogan arrived as the meeting was in progress.

Presentation: Department Of Revenue Update On The Commercial Passenger Vessel Tax Program

[11:10:59 AM](#)

CHAIR NEUMAN announced that the only order of business would be an update from the Department of Revenue on the Commercial Passenger Vessel Tax Program.

[11:11:14 AM](#)

REPRESENTATIVE JOHANSEN voiced the need to clarify this tax for his constituents.

[11:12:30 AM](#)

JOHANNA BALES, Deputy Director, Tax Division, Department of Revenue, informed the committee that the 2006 Commercial Passenger Vessel Tax Program initiative held several revenue provisions. One of the revenue provisions was a \$46 excise tax on passengers on large cruise ships with over 250 berths. Other revenue provisions of the initiative are: a tax, at the rate of 33 percent of adjusted gross income, on gambling activities in state waters; an Alaska corporate net income tax; and a \$4 per passenger Ocean Ranger fee collected by the Department of Environmental Conservation.

[11:13:53 AM](#)

REPRESENTATIVE GATTO asked whether the berth count of a cruise ship includes berths for the crew.

[11:14:12 AM](#)

MS. BALES answered that only passenger berths are included.

[11:14:26 AM](#)

REPRESENTATIVE GATTO questioned the use of berths, rather than the number of passengers, to determine the size of the ship.

MS. BALES clarified that the term used is "passenger berths" and it does not include crew quarters.

[11:14:46 AM](#)

REPRESENTATIVE DOOGAN asked whether the \$4 Ocean Ranger fee only applies to vessels of over 250 passenger berths.

[11:15:11 AM](#)

MS. BALES said yes.

[11:15:22 AM](#)

REPRESENTATIVE DOOGAN further asked whether the gambling tax applied to all vessels.

[11:15:32 AM](#)

MS. BALES responded that the assessment of the gambling tax is determined by federal law that requires that a cruise ship must have overnight accommodations for all of its passengers to qualify.

[11:15:48 AM](#)

REPRESENTATIVE DOOGAN then asked whether all of the cruise ship companies are required to pay Alaska corporate income tax, without regard to the size of the ship.

[11:16:06 AM](#)

MS. BALES indicated yes. She then continued to explain that the other provisions of the initiative: requires cruise ship operators to report more information regarding wastewater; authorizes citizen lawsuits against an owner or operator of a large cruise ship; enables a person who provides information to receive 25 percent to 50 percent of fines imposed; and imposes additional requirements on disclosures about on-ship promotions of shore-side businesses.

[11:17:04 AM](#)

REPRESENTATIVE GATTO gave an example of 25 people reporting the same violation and asked who would get the 25 to 50 percent of the fines imposed.

[11:17:34 AM](#)

MS. BALES acknowledged that her description of the provision is not the exact wording of the law and referred Representative Gatto's question to the Department of Law. She further explained that the common term "\$50 head tax" comes from the \$46 excise tax plus the \$4 fee for the Ocean Rangers.

[11:18:40 AM](#)

REPRESENTATIVE DOOGAN asked for the specific language regarding the amount of the Ocean Ranger fee.

[11:18:44 AM](#)

MS. BALES stated that there are separate titles for these fees in the Alaska statutes.

[11:18:53 AM](#)

REPRESENTATIVE GATTO asked whether the \$4 fee is assessed per person or per berth.

[11:19:08 AM](#)

MS. BALES said that the language in the initiative is \$4 per berth; however, she expressed her understanding that the fee is being collected per person.

[11:19:21 AM](#)

REPRESENTATIVE GATTO suggested that a vessel could travel with empty berths.

[11:19:32 AM](#)

MS. BALES opined that the fee is being assessed per person, although the language states per berth. She pointed out that the Department of Revenue (DOR) administers, and is responsible for; the corporate income tax, the cruise ship gambling tax, and the excise tax. The DOR must also disburse the funds as directed by the legislature and draft regulations, if necessary.

[11:20:51 AM](#)

CHAIR NEUMAN asked whether there are restrictions on the manner in which the head tax funds can be spent.

[11:20:59 AM](#)

MS. BALES noted that this subject will be discussed later in her presentation. She then related the history of the corporate income tax and reminded the committee that the legislature enacted an exemption for water transportation companies in 2000. The initiative repealed the exemption for the cruise ship industry, and the revenue from the corporate income tax will be deposited in the general fund. The first tax returns from this industry are due in April of 2008, but the DOR does not have an estimate of what the revenue will be, given that there was no history of payment.

[11:23:29 AM](#)

REPRESENTATIVE JOHANSEN asked when the corporate income tax returns will be processed.

[11:23:43 AM](#)

MS. BALES stated that the tax returns are due April 15; however, tax payments are due March 15, and the DOR should have an estimate of the amount of revenue by the end of March.

[11:24:25 AM](#)

MS. BALES, in response to a question, re-stated that the DOR can make no estimate on these revenues.

[11:24:38 AM](#)

REPRESENTATIVE GATTO asked whether the corporate income tax was based on Alaskan operations only, or on the entire voyage.

[11:24:56 AM](#)

MS. BALES answered that the corporate income tax is based on an apportionment formula. All corporations, other than oil and gas corporations, must calculate the formula based on the "water's edge" allowance, that looks at all of the companies doing business in the U.S. and apportions a certain amount of activity to Alaska.

[11:25:43 AM](#)

REPRESENTATIVE GATTO asked whether the DOR intends to collect retroactive corporate income taxes.

[11:26:03 AM](#)

MS. BALES stated that there was no retroactivity in the bill; therefore, no tax was due.

[11:26:14 AM](#)

REPRESENTATIVE GATTO asked about previous years.

[11:26:31 AM](#)

MS. BALES explained that this industry was not liable for corporate income taxes in previous years. She continued to point out that, unlike the excise tax, there is no provision in the corporate income tax that requires revenue sharing with municipalities, thus the revenue will go to the general fund. Also, the DOR drafted regulations for water transportation companies that were effective October, 2007. The DOR currently has regulations on the gambling tax out for public comment and the comment period ends on February 7, 2008.

[11:27:38 AM](#)

CHAIR NEUMAN asked for a description of the public response.

[11:27:52 AM](#)

MS. BALES advised that these regulations do not deal with aspects of the bill that affect communities and there were no public hearings. She said that no comments have been received, at this point. Ms. Bale continued with the presentation and noted that the 33 percent gambling tax is imposed on the adjusted gross income from gambling activities conducted in state waters. The adjusted gross income is defined as the gross gambling proceeds from which prizes and federal and municipal taxes have been subtracted. Similar to the corporate income tax, the DOR expects an annual return, with the first returns due April 15, 2008; however, the revenue will be deposited in the Commercial Vessel Passenger Tax Account.

[11:30:07 AM](#)

REPRESENTATIVE JOHANSEN asked whether there was a history of gambling tax income.

[11:30:31 AM](#)

MS. BALES indicated that there was not.

11:30:43 AM

REPRESENTATIVE JOHANSEN recalled that there was one year of data collected in the 1990s.

11:31:12 AM

MS. BALES expressed her belief that, due to the rapid growth of the industry, previous data should not be used. She continued to explain that the corporate income tax revenue is deposited in the general fund and the gambling tax revenue is deposited in the Commercial Vessel Passenger Tax Account established by the initiative. Turning to the subject of the excise tax, she acknowledged that there is significant interest in the regulations surrounding the head tax. The \$46 excise tax is levied on the cruise ship passenger, per voyage, and is collected by the ship owner. Payment of the tax is due to the state at the end of each month following the month of the end of the voyage. A voyage is defined as a cruise lasting longer than 72 hours. Distribution of the tax revenue is determined by the number of passengers at each Alaska port of call and the ship is required to record and report this information.

11:33:29 AM

REPRESENTATIVE DOOGAN surmised that the tax is levied as the ship enters state waters.

11:33:44 AM

MS. BALES stated that the tax is levied at the end of the voyage. Generally speaking, however, the cruise ship industry collects the tax at the beginning of any cruise scheduled to extend beyond the 72 hour minimum.

11:34:16 AM

REPRESENTATIVE DOOGAN gave an example of passengers not completing the voyage.

MS. BALES confirmed that, if passengers spent 72 hours on board, they would be obligated to pay the tax. Further accounting would be needed to determine the revenue sharing between the ports of call. She re-stated that the DOR is responsible to account for the revenue and to disburse the proceeds. The

initiative established that \$34.50, or 75 percent of the \$46 excise tax is to be deposited to the Commercial Vessel Passenger Tax Account and \$11.50, or 25 percent of the \$46 excise tax, is to be deposited to the Regional Cruise Ship Impact Fund.

[11:35:59 AM](#)

CHAIR NEUMAN asked who established this "break up."

[11:36:10 AM](#)

MS. BALES said that the sub accounts were established by the initiative. She then indicated that a total of \$46,471,270 was collected by the DOR during the cruise ship season in 2007, from 1,010,245 million passengers.

[11:36:43 AM](#)

CHAIR NEUMAN confirmed that the head tax revenue was \$46.4 million to the general fund.

[11:37:07 AM](#)

REPRESENTATIVE JOHANSEN asked where the gambling tax revenue would be deposited.

[11:37:11 AM](#)

MS. BALES said that the gambling tax revenue would be deposited in the Commercial Vessel Passenger Tax Account.

[11:37:13 AM](#)

CHAIR NEUMAN asked whether there are specific benefits from the fund to go to communities that are impacted by cruise ship visitors.

[11:37:58 AM](#)

MS. BALES said yes. However, she stated that there are some restrictions for communities that have their own passenger fees. First, she informed the committee that, through the initiative, the disbursement of the Commercial Vessel Passenger Tax Account is under the "first five ports of call rule." Funds not distributed remain in this account, with the addition of the gambling tax revenue, and the legislature may appropriate money from this account for "state-owned port and harbor

facilities, other services to properly provide for vessel or watercraft visits, to enhance the safety and efficiency of interstate and foreign commerce and such other lawful purposes."

[11:39:36 AM](#)

REPRESENTATIVE JOHANSEN asked whether this authorization is found in state statute.

[11:39:52 AM](#)

MS. BALES said this language is found in state statute A.S. 43.52.

[11:40:09 AM](#)

REPRESENTATIVE JOHANSEN further asked whether this language comports with the Maritime Transportation Security Act of 2002.

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MS. BALES expressed her understanding that the drafters of the initiative intended for the language to coincide with federal law.

[11:40:25 AM](#)

REPRESENTATIVE JOHANSEN remarked:

To quote the [Public Law] 107-295, "reasonable fees charged on a fair and equitable basis that are used solely to pay the cost of a service to the vessel or watercraft", a, that seems pretty, pretty, specific, more specific than the initiative language. And I know there is some difficulty, from your perspective, since Revenue doesn't distribute, they collect. This may not be your bailiwick, but, at some point, that's a question that we're going to have to wrestle with, I think.

[11:41:47 AM](#)

REPRESENTATIVE DOOGAN surmised that the revenue from each voyage is distributed to the first five ports of call of that voyage.

[11:42:03 AM](#)

MS. BALES said, " ... basically that's what happens when the distribution is made."

[11:42:15 AM](#)

CHAIR NEUMAN asked what happens if the ship only makes three ports of call.

[11:42:33 AM](#)

MS. BALES explained that the three ports of call would receive \$5 per passenger, and the remainder of the fees would stay in the account.

[11:42:46 AM](#)

CHAIR NEUMAN further asked about benefits to the communities affected by the tourist traffic that continues by bus after leaving the ship.

[11:43:03 AM](#)

MS. BALES stated that benefits for those communities come from the Regional Cruise Ship Impact Fund.

[11:43:14 AM](#)

REPRESENTATIVE JOHANSEN opined that this is the question of the language in the initiative and [difference] in the federal language. The issue of where this money can be spent is for another day.

[11:43:37 AM](#)

MS. BALES pointed out that the expectation of the initiative was that, after the collection of \$5 from each passenger at the first five ports of call, \$25, or over half of the \$46 excise tax, would be paid to those port communities. However, most voyages visit three ports, and with the adjustment for ports that have a passenger tax, the DOR estimates that the disbursement to the first five ports of call will be about \$10 million per year. She clarified that a port of call must be in a municipality or borough, must be a location where passengers embark or disembark, and can not have its own passenger fee.

[11:45:00 AM](#)

REPRESENTATIVE JOHANSEN pointed out that the initiative splits the \$5 if a city is within a borough. In the Ketchikan Gateway Borough there are two cities, Saxman and Ketchikan. Saxman is heavily impacted by tourism and he asked whether the DOR has looked at this situation.

[11:46:15 AM](#)

MS. BALES said that the DOR looks at the location where the cruise ship docks. Therefore, disbursement was made to the Ketchikan Gateway Borough. The intent of the initiative was that funds to Saxman would be available from the Regional Cruise Ship Impact Fund.

[11:47:05 AM](#)

REPRESENTATIVE GATTO asked whether Saxman generates income from being part of the Ketchikan Gateway Borough.

[11:47:36 AM](#)

MS. BALES stressed that the initiative directs that the communities that receive money must use the money to enhance cruise ship tourism. She opined that the Ketchikan Gateway Borough could spend the money in Saxman, as long as the purpose is clear.

[11:48:02 AM](#)

CHAIR NEUMAN assumed that Saxman would be part of the tourism enhancement program.

[11:48:20 AM](#)

REPRESENTATIVE JOHANSEN observed that the language in the initiative is confusing and vague.

[11:48:57 AM](#)

CHAIR NEUMAN acknowledged that the language in public initiatives often needs to be "ironed out."

[11:49:14 AM](#)

MS. BALES continued to explain that another provision of the initiative prohibits a community from collecting funds from both the first five ports of call rule and the Regional Cruise Ship

Impact Fund. She then listed the FY 2008 disbursements under the first five ports of call rule that totaled \$744,580.00. Ms. Bales also provided an estimate of the FY 2009 disbursements under the first five ports of call rule and noted that the disbursement is subject to appropriation by the legislature.

[11:51:42 AM](#)

CHAIR NEUMAN asked whether there were recommendations on this money in the governor's capital budget.

[11:51:53 AM](#)

MS. BALES said no. All funds are appropriated to the DOR to disburse in accordance with the initiative.

[11:52:02 AM](#)

REPRESENTATIVE JOHANSEN asked whether it is common practice for the DOR to disburse funds.

[11:52:26 AM](#)

MS. BALES said that the DOR disburses funds at the direction of the legislature; however, it does not have the expertise to determine what projects should be funded.

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REPRESENTATIVE JOHANSEN further asked whether there has been discussion at the cabinet level about the plan to distribute this money.

[11:52:51 AM](#)

MS. BALES related that she and others at the DOR talked to authorities in Juneau and Ketchikan about how those cities distribute their passenger fees. In fact, Juneau's procedure may be outside of the narrow interpretation of federal law. However, Juneau includes a high level of involvement by the cruise ship industry through a city ordinance. Ms. Bales then listed the remaining account balances for the 2007 cruise ship season. There is \$36.4 million available for additional projects outside of sharing with communities.

[11:55:11 AM](#)

REPRESENTATIVE DOOGAN asked for clarification on the balance of the first five ports of call account.

[11:55:35 AM](#)

MS. BALES stated that the entire amount of the first five ports of call account will be disbursed. She pointed out that the remaining \$24.8 million, in addition to the gambling tax revenues, is available for appropriation. This amount is not shared with the ports of call and can be used "for state-owned port and harbor facilities, other services to properly provide for vessel or watercraft visit, to enhance the safety and efficiency of interstate and foreign commerce and such other lawful purposes." Ms. Bales expressed the DOR's belief that funds can be used for state projects in specific communities; however, the DOR is not tasked with drafting regulations for the use of these funds and will not be drafting regulations dealing with this remaining account.

[11:57:07 AM](#)

REPRESENTATIVE JOHANSEN asked whether a city that receives money under the first five ports of call rule is eligible to receive money from this account.

[11:57:22 AM](#)

MS. BALES said yes.

[11:57:27 AM](#)

REPRESENTATIVE GATTO opined that the \$9.2 million available to disburse in FY 2009 is about a million short.

[11:57:57 AM](#)

MS. BALES explained that the DOR has already distributed \$744,000.

[11:58:15 AM](#)

REPRESENTATIVE GATTO asked whether a port of call requires a visit.

[11:58:29 AM](#)

MS. BALES said the draft regulations require a visit for a community to qualify as a port of call. She concluded by saying that there is \$11.6 million in the Regional Cruise Ship Impact Fund and disbursements must be appropriated by the legislature. In addition, funds can only go to municipalities and other governmental entities impacted by cruise ship activity and funds can not go to communities receiving revenue under the first five ports of call rule.

[11:59:27 AM](#)

CHAIR NEUMAN expressed his desire to study the report in light of the overall budget.

[11:59:45 AM](#)

REPRESENTATIVE JOHANSEN observed that the DOR is tasked by the initiative to disburse [funds], which is not something that it does. He expressed his concern that the legislative body may not pass legislation to direct the disbursement of these funds and suggested that there should be project rankings and structure from the administration in order to get this money back to the communities.

[12:01:40 PM](#)

CHAIR NEUMAN agreed.

[12:01:53 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Special Committee on Economic Development, International Trade and Tourism meeting was adjourned at 12:02 p.m.