

SENATE FINANCE COMMITTEE
January 30, 2009
9:00 a.m.

CALL TO ORDER

Co-Chair Stedman called the Senate Finance Committee meeting to order at [9:00:37 AM](#).

MEMBERS PRESENT

Senator Bert Stedman, Co-Chair
Senator Charlie Huggins, Vice-Chair
Senator Johnny Ellis
Senator Kim Elton
Senator Donny Olson
Senator Joe Thomas

MEMBERS ABSENT

Senator Lyman Hoffman, Co-Chair

ALSO PRESENT

Johanna Bales, Deputy Director, Tax Division, Department of Revenue; Phillip Oates, City Manager, City of Seward.

SUMMARY

^Presentation: Commercial Passenger Vessel Excise Tax Update.

Presentation:
Commercial Passenger Vessel Excise Tax Update

Co-Chair Stedman clarified that the excise tax, commonly known to the committee as the crew ship head tax, has several elements and that there are limitations as to how the revenue can be spent. He reported that the Office of Management and Budget would be before the committee at a later date to answer further questions.

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JOHANNA BALES, DEPUTY DIRECTOR, TAX DIVISION, DEPARTMENT OF REVENUE, introduced a PowerPoint presentation "Commercial Passenger Vessel Excise Tax (CPV)" (Copy on File). She shared that the tax and the subsequent provisions of the tax, was initiated thorough a public initiative process. The tax took effect on December 17, 2006. She read from Slide 1b, "Initiative Overview (Revenue Provisions)":

- Imposes a \$46 CPV tax on large cruise ships (over 250 berths).
- Levies a tax at the rate of 33 percent of adjusted gross income on cruise ship gambling activities in state waters.
- Subjects cruise ship companies to Alaska's corporate net income tax.
- Assesses a \$4.00 per passenger berth fee to cover the cost of state-employed marine engineers (Ocean Rangers) to observe health, safety and wastewater treatment and discharge operations.

Ms. Bales explained that the tax consists of the \$46 CPV tax and the \$4 Ocean Ranger fee, bringing the cruise ship tax to a total of \$50 per passenger.

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Ms. Bales discussed Slide 3a, "Department of Revenue Responsibilities":

- Administer and collect the corporate net income tax.
- Administer and collect the 33% cruise ship gambling tax.
- Administer and collect the \$46 CPV tax (commonly referred to the cruise ship "head tax").
- Account for and disburse proceeds of the tax as directed by the legislature.
- Draft regulations for all tax purposes.

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Ms. Bales parlayed that Alaska has had a corporate income tax for many years. She pointed out that in the past foreign flag vessels, which cruise ships generally are, were exempt from Alaska's corporate tax under a federal provision that the state had adopted. The initiative reversed the adoption of the federal provision making all foreign flagged vessels subject to Alaska's corporate income tax. She continued to Slide 3b, "Administer and collect the corporate net income tax":

- Cruise ship owners are subject to the corporate income tax just like all other corporations in Alaska.
- Money collected is deposited in general fund (no current estimate of revenues).
- First tax returns due April 15, 2008.
- There is no revenue sharing to municipalities from this tax type.
- Regulations effective October 2007.

Ms. Bales addressed Slide 4a, "Administer and collect the 33 percent cruise ship gambling tax":

- Regulations effective April 11, 2008.
- Tax is imposed on adjusted gross income received from gambling activities conducted in state waters.
- Adjusted gross income is gross gambling proceeds less prizes paid out and federal and municipal taxes imposed on the income.
- Annual return with the first returns due April 15, 2008.
- Revenue deposited in CPV tax account.

Ms. Bales continued to Slide 4b, "Administer and collect the \$46 CPV tax, ("head tax")":

- Levied on the cruise ship passenger per voyage.
- Paid by the cruise ship owner or operator.
- Due by the end of the month following the month in which the voyage ended.
- Due for each voyage lasting longer than 72 hours.
- Must report the number of passengers at each Alaska port of call.

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Senator Elton understood that the head tax was being paid to the state by the cruise ship owner but was collected from the passenger. Ms. Bales clarified that that was correct. He thought the language was confusing and could lead people to believe that the tax was being assessed to the cruise ship owner when in fact it is added to the ticket price paid by the passenger. Ms. Bales agreed the language could be made clearer.

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Ms. Bales addressed Slide 5a "Account for and disburse proceeds of the CPV tax as directed by the legislature:

- CPV tax is deposited into a sub account of the general fund as follows:
 - CPV tax account -75 percent of proceeds or \$34.50 per person.
 - Regional Cruise Ship Impact Fund -25 percent of proceeds or \$11.50 per person.

Ms. Bales turned to a chart on Slide 5b depicting receipts from the CPV tax. The chart illustrates the cruise ship season revenue in FY07 and FY08, minus the gambling tax revenue. There were approximately 1 million passengers each

year. In 2007 the deposits into the two accounts totaled \$46,306,774. In 2008 the deposits totaled \$46,755,412. Slide 6a breaks these numbers down month-by-month. Slides 6b and 7a depict the breakdown of the cruise ship season revenue deposits in pie chart format. The projected cruise ship season revenue, based on previous years, is \$46,800,000 total. Slide 8a shows the 2007, 2008 and projected 2009 numbers combine for a total of \$139,862,186.

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Ms. Bales hoped the 2009 tourist season would be as successful as is projected. She stressed that all the funds deposited into the CPV account are subject to statutory guidelines as to how they should be spent. She discussed Slide 8b, "CPV Tax Account":

- Revenue disbursed to communities under "first five ports of call" rule comes from this account.
- Gambling tax revenue deposited in this account.
- Legislature may appropriate money from this fund "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."

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Ms. Bales turned to Slide 9a, detailing the first five ports of call (estimated disbursement of \$10 million annually):

- \$5 per passenger shared with first five ports of call
- Port of call
 - Must be a municipality or borough.
 - Must be location where passengers embark or disembark (includes lightering of passengers).
 - Cannot have its own passenger tax.
 - Boroughs not unified with a municipality may receive \$2.50 per passenger.
 - Cannot also receive funds from "Regional Cruise Ship Impact Fund."

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Ms. Bales addressed Slide 9b, "Revenue Sharing":

- CPV Tax Account
 - First 5 ports of call
 - Legislature appropriated amount needed for community revenue sharing from 2007 cruise ship season- 2 disbursements made to communities in December 2007 and June 2008.

- Legislature appropriate amount needed for community revenue sharing from 2008 cruise ship season- 1 disbursement made to communities in January 2009.

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Ms. Bales detailed the amounts received by communities in the first five ports of call as delineated on Slide 10a. She explained that some communities receive shares based on \$2.50 per passenger instead of \$5.00 per passenger. Those communities have a different share base because they are not unified within the borough in which they are located.

Co-Chair Stedman asked for a list of the ports with a \$2.50 share base. Ms. Bales replied that Homer and Seward were listed because they are not unified with the Kenai Peninsula Borough. The City of Ketchikan has its own passenger tax but the Ketchikan Borough, which is not unified with the city, receives the \$2.50 share. Co-Chair Stedman wondered where the City and Borough of Juneau figured into the share base equation.

Senator Elton asked for more discussion of the different communities on the list. He queried how the department made the decisions on share distribution in Hoonah where the port is privately owned and the passengers are discharged offshore.

9:23:10 AM

Ms. Bales answered that the City of Hoonah qualifies under statute for its share because the private dock used by the cruise ships is located within the municipality.

Ms. Bales continued with Slide 10b, "CPV Tax Account":

- CPV Tax Account
 - Remaining revenue (after sharing with first 5 ports of call) is not shared with communities.
 - Funds can be used to "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."
 - Funds can be used for state projects in specific communities.
 - Appropriation is required by the legislature.

9:24:29 AM

Ms. Bales discussed Slide 11a, which is a pie chart depicting total CPV revenues of approximately \$10 million that will be deposited based on the projected 2009 season. There were appropriations in the 2009 budget of

approximately \$15 million made to the Department of Commerce, Community and Economic Development (DCCED) for municipal grants. The proposed 2010 capital budget includes another \$39 million capital projects. The projects in the port communities are split between the DCCED and the Department of Transportation and Public Works. If projections are accurate there will be \$20 million remaining in the account for future appropriation.

Ms. Bales addressed Slide 11b, "Regional Cruise Ship Impact Fund" (estimated amount available for appropriation- \$11.6 million annually):

- Disbursements from this fund must be appropriated by legislature.
- Funds can only go to municipalities and other governmental entities "impacted" by cruise ship activity.

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Senator Thomas asked for clarification on the definition of cruise ship activity. He shared concerns that the funds would not extend into areas beyond the coast. He pointed out that cruise ship activity impacts the Interior. At least 50 percent of cruise ship passengers pass through Fairbanks area to access Denali National Park. He wondered how long it would take the department to clarify what constitutes cruise ship impact. This would help in understanding the guidelines for determining which municipalities could receive the impact funds. Ms. Bales replied that there are cautionary measures to examine in determining which municipalities will receive funds. She felt the question would be better answered by Office of Budget and Management (OMB). Co-Chair Stedman added that in FY08 the appropriation of \$3.6 million for Anchorage and \$3.5 for Fairbanks, from the capital budget for cruise ship impact, had been vetoed. Anchorage and Fairbanks had been labeled low priority in the matter. He reiterated Senator Thomas's concerns that the Interior be considered when examining the distribution of money from the cruise ship impact fund.

[9:30:44 AM](#)

Senator Elton wondered about the distribution of the \$11.6 million in the Regional Cruise Ship Impact Fund. He queried the rule that states that those funds cannot be appropriated to cities already receiving funds under the "first five ports of call" rule. He understood that appropriations from the fund could be made to Juneau and Ketchikan because they do not fall on the department's list of "first five ports of call", even though they are most likely one of the first five ports of call the cruise ship visits. Ms. Bales acknowledged that the department has details to work out.

She felt that Senator Elton's questions would be better answered by the Department of Law and the Governors Office. Senator Elton stated for the record that it was unfair to the cities of Juneau and Ketchikan to be excluded from available funds. He felt the revenue sharing as it is currently set up was inconsistent. Co-Chair Stedman explained that Ketchikan, Juneau and Skagway host the highest numbers of cruise ship and cruise ship passengers seasonally. He stressed that the issue would be revisited.

[9:33:38 AM](#)

Senator Huggins asked about line items in this fund that were vetoed in the last capital budget cycle. Senator Stedman specified that there had been nine line items vetoed amounting to \$18.3 million. He added that the vetoed items had been deemed low priority or set aside for future consideration. Senator Huggins wondered why the veto's had occurred. He felt that the people had voted on the tax and should benefit from the generated revenue. Ms. Bales said that she would share the committee's concerns with the governor's office.

Co-Chair Stedman recalled discussions with the Department of Law concerning the FY09 capital budget projects. Senate Bill 221 initially appropriated \$33,468,700 for capital budget projects, leaving a balance of \$3 million. When the governor's office returned the budget to the committee after consideration, line items totaling \$18.3 million had been vetoed. Co-Chair Stedman stressed that the funding for the projects had been available, with money to spare, which made the reasoning behind the governor's vetos questionable. Co-Chair Stedman was specifically curious about the timeline that would apply to line items that were marked to be considered in the future.

[9:36:44 AM](#)

Senator Elton emphasized that "low priority" was the terminology used by the executive administration and does not reflect the priorities of the legislative bodies. He was offended that the administration had deemed the Juneau Centennial Hall Cruise Ship Passenger Emergency Relief Center as something that could be considered in the future. He felt that the center should be built as soon as possible. Co-Chair Stedman added that the AV Lituya was presently grounded. He felt that communities should be prepared for immediate response to marine emergencies. Ms. Bales stated that she would share the committee's concerns with the governor's office.

[9:39:12 AM](#)

Ms. Bales continued with Slide 12a which details the FY09 appropriations of the total revenue deposited into the Regional Cruise Ship Impact Fund. One appropriation for \$2,500,000 was made for the Department of Transportation, leaving \$32,465,547 in unappropriated funds.

Ms. Bales addressed the large passenger vessel gambling tax (Slide 12b):

- First returns were filed April 15, 2008
- Actual revenue for calendar year 2007 was \$6.8 million.
- Revenue deposited in Commercial Vessel Passenger Tax Account.
- No constitutional restrictions on how this money can be spent.

Ms. Bales referred to two pie charts on Slides 13a and 13B delineating actual and projected revenues.

[9:41:18 AM](#)

Senator Huggins wondered if the unappropriated money in the Regional Cruise Ship Impact Fund was generating additional revenue. Ms. Bales thought that the question was better answered by OMB. Senator Huggins felt that the issue was essential when examining the inflationary cycle. He felt that the equitable distribution of the funds generated by CPV should be of high priority to the committee.

Senator Elton referred to Slide 13b which charts the FY08-FY10 large passenger vessel gambling tax revenues (actual and projected). He wondered if the desire of the executive branch was to spend only \$12 million total of the funds in FY10, which would leave the remaining \$8.4 million available for legislative prioritization. Ms. Bales answered that she would look into the question.

Co-Chair Stedman requested that Ms. Bales research which communities applied for appropriation consideration and which qualifying communities have yet to apply. He felt that the process for applying for appropriations from the state should be readily accessible to all communities that may qualify for the impact funds. Ms. Bales avowed to relay the concerns of the committee to the governor's office.

[9:43:49 AM](#)

Co-Chair Stedman shared that there were concerns in the FY08 appropriation cycle concerning the timing of revenue sharing payments to communities. He wondered if the timing issue had been sorted out for FY09.

Ms. Bales clarified revenue sharing would be earlier. She explained that currently the payments are made when the department reconciles it's accounts at the year's end. She asserted that the department was working toward distributing the funds at an earlier date.

[9:45:55 AM](#)

PHILLIP OATES, CITY MANAGER, CITY OF SEWARD, shared his concerns with the limits of the distribution of funds under the "first five ports of call" rule. He felt that the entire state has a hand in a successful tourist season. He informed the committee that clear reasons had not been given by the governor's office as to why projects in Seward had been vetoed in the FY09 capital budget. He stressed that it was difficult to plan for the future without understanding the decision making rationale used by the executive branch.

Co-Chair Stedman pointed out that the Seward project for dredging cruise ship berthing basins and approaches had been the first project to be vetoed. The \$4.5 million project had been set aside for future consideration. He wondered if the city of Seward was still interested in funding for the project. Mr. Oates replied absolutely. He added that the project is an ideal use for the CPV funds as it will benefit the cruise ships directly. He stressed that if the project is not implemented, large cruise ship could stop visiting Seward altogether.

[9:48:00 AM](#)

Co-Chair Stedman discussed the following week's agenda.

ADJOURNMENT

The meeting was adjourned at 9:48 AM.