

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

March 8, 2011
10:19 a.m.

MEMBERS PRESENT

Representative Bob Herron, Chair
Representative Kurt Olson, Vice Chair
Representative Neal Foster
Representative Reggie Joule
Representative Wes Keller
Representative Cathy Engstrom Munoz
Representative Steve Thompson
Representative Berta Gardner
Representative Chris Tuck

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE JOINT RESOLUTION NO. 19
Urging the United States Senate to ratify the United Nations
Convention on the Law of the Sea.

- MOVED CSHJR 19(EDT) OUT OF COMMITTEE

HOUSE BILL NO. 160

"An Act establishing and relating to the Alaska visitor industry
investment fund; relating to matching funds for state tourism
marketing contracts with qualified trade associations; and
providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HJR 19

SHORT TITLE: URGING US TO RATIFY LAW OF THE SEA TREATY

SPONSOR(S): ECON. DEV., TRADE & TOURISM

03/07/11	(H)	READ THE FIRST TIME - REFERRALS
03/07/11	(H)	EDT, RES

03/08/11 (H) EDT AT 10:15 AM BARNES 124

BILL: HB 160

SHORT TITLE: TOURISM MARKETING CONTRACTS/CAMPAIGNS

SPONSOR(S): ECON. DEV., TRADE & TOURISM

02/16/11 (H) READ THE FIRST TIME - REFERRALS
02/16/11 (H) EDT, FIN
03/01/11 (H) EDT AT 10:15 AM BARNES 124
03/01/11 (H) Heard & Held
03/01/11 (H) MINUTE(EDT)
03/08/11 (H) EDT AT 10:15 AM BARNES 124

WITNESS REGISTER

ROB EARL, Staff
Representative Bob Herron
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Introduced HJR 19 on behalf of Representative Bob Herron, Chair, House Special Committee on Economic Development, International Trade and Tourism.

REAR ADMIRAL CHRISTOPHER C. COLVIN
Commander
Seventeenth Coast Guard District
U.S. Coast Guard, Department of Homeland Security
Juneau, Alaska

POSITION STATEMENT: Testified during the hearing on HJR 19.

REPRESENTATIVE PAUL SEATON
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Testified in support of HJR 19.

REPRESENTATIVE MAX GRUENBERG
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Testified in support of HJR 19.

ED PAGE, Executive Director
Marine Exchange of Alaska (MXAK)
Juneau, Alaska

POSITION STATEMENT: Testified in support of HJR 19.

WALTER PARKER, President
Parker Associates Inc.; Senior Fellow

Arctic Infrastructure
Institute of the North
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HJR 19.

TERRY HARVEY, Staff
Representative Cathy Munoz
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 160.

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

POSITION STATEMENT: Answered questions during the hearing on HB 160.

SUSAN BELL, Commissioner
Department of Commerce, Community & Economic Development (DCCED)
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 160.

ACTION NARRATIVE

[10:19:36 AM](#)

CHAIR BOB HERRON called the House Special Committee on Economic Development, International Trade and Tourism meeting to order at 10:19 a.m. Representatives Herron, Keller, Olson, Munoz, and Thompson were present at the call to order. Representatives Tuck, Joule, Foster, and Gardner arrived as the meeting was in progress. Representatives Seaton and Gruenberg were also present.

HJR 19-URGING US TO RATIFY LAW OF THE SEA TREATY

[10:20:19 AM](#)

CHAIR HERRON announced that the first order of business would be HOUSE JOINT RESOLUTION NO. 19, Urging the United States Senate to ratify the United Nations Convention on the Law of the Sea.

[10:20:41 AM](#)

ROB EARL, staff, Representative Bob Herron, Alaska State Legislature, introduced HJR 19 on behalf of the House Special Committee on Economic Development, International Trade and Tourism. Mr. Earl informed the committee the United Nations (UN) Convention on the Law of the Sea (UNCLOS) comprises 320 articles and 9 annexes that define the rights and responsibilities of nations and their use of the world's oceans, establishing guidelines for businesses, the environment, and the management of marine natural resources. The resolution urges the U.S. Senate to ratify UNCLOS because it is important to protect U.S. interests concerning the use and development of the high seas off of Alaska. Furthermore, UNCLOS governs many aspects of oceans such as mapping, environmental control, marine scientific research, economic and commercial activities, and the settlement of disputes related to ocean matters. Currently, 161 countries have signed UNCLOS and Senator Lisa Murkowski encouraged the legislature to pass this resolution. The UN Convention on the Law of the Sea allows coastal countries to exercise sovereignty over their territorial sea, which may not exceed 12 nautical miles, and foreign vessels are allowed "innocent passage" in this zone. Another feature allows ships and aircraft of all countries "transit passage" through straits used for international navigation, although all coastal countries have sovereign rights to the 200-nautical mile exclusive economic zone (EEZ) with respect to natural resources and certain economic activities, and to exercise jurisdiction over marine science research and environmental protection. Mr. Earl advised that the state has much to gain from the international recognition of the U.S. 200-mile EEZ and possible extended continental shelf claims, and much to lose if it is the only Arctic nation not to extend its ocean boundaries. He called attention to the sponsor statement and supporting and opposing documents provided in the committee packet. Referring to HJR 19, he pointed out the following: beginning on page 1, line 4, the resolution recognizes the fundamental concept that all nations have freedom to navigation on the high seas; beginning on page 1, line 10, the resolution indicates what Alaska and the U.S. would gain from the extension of EEZ off of the Arctic Slope; beginning on page 1, line 14, the resolution indicates what the U.S. as a whole would gain; beginning on page 2, line 13, the resolution indicates that the U.S. has the most to gain of any country from ratification of UNCLOS. Continuing on page 2, line 23, the resolution indicates that the U.S. cannot participate as a full cooperative partner with other Arctic nations until ratification because it cannot finalize its international boundaries with Canada. Beginning on page 3, line

24, the resolution indicates that the legislature passed a similar resolution in 2009.

10:26:58 AM

CHAIR HERRON called attention to a map titled, "Potential Extended Continental Shelf," which showed an area beyond the U.S. 200-mile limit that could be added by the extension of claims to the outer continental shelf, and cautioned that this area has been targeted for use by China.

10:28:30 AM

REAR ADMIRAL CHRISTOPHER C. COLVIN, Commander, Seventeenth Coast Guard District, U.S. Coast Guard, Department of Homeland Security, said he would provide information on how accession to UNCLOS would benefit the U.S. Coast Guard in the performance of its missions, and in protecting the American people. Admiral Colvin is responsible for directing Coast Guard operations including search and rescue, maritime safety, environmental protection, fisheries law enforcement, and military readiness in Alaska and portions of the North Pacific Ocean, the Arctic Ocean and the Bering Sea. Coast Guard aircraft and vessels monitor more than 950,000 square miles off the Alaska coast to enforce U.S. fisheries laws. The Coast Guard patrols an even larger area of the North Pacific to stop large scale, high seas drift netting, and other illegal fishing practices. Maritime safety and environmental protection are also priority missions; in fact, over 15 percent of the oil that America produces each day transships through the Port of Valdez. Alaska is the world's second most popular cruise destination, bringing nearly one million passengers to its waters every year. The safety of cruise ships and passengers is another critical mission. Admiral Colvin's experience is extensive, including combat operations, fisheries patrols in Alaska, and drug patrols in the Caribbean. He also served as Chief of Staff and Chief of Operations of the Coast Guard Atlantic Area, and as the Deputy Director for Operations at the U.S. Northern Command. His widespread maritime experience allows him to comment on the beneficial effects that becoming party to UNCLOS would have on U.S. Coast Guard missions. The UN Convention on the Law of the Sea created a comprehensive legal regime that provides the Coast Guard with the legal certainty and stability to exercise its navigational rights and freedoms, to protect fisheries, to control marine pollution, and to maintain a legal order of the oceans against criminals and terrorists. From a Coast Guard perspective, public order of the oceans is best established and

maintained by a stable, universally accepted law reflective of U.S. national interest. The navigation provisions of UNCLOS are reflective of customary international law.

[10:33:37 AM](#)

ADMIRAL COLVIN explained that one of the core foundations of UNCLOS was codification of rights and responsibilities of states as port states, flag states, and coastal states - the term "states" is interchangeable with "nations" or "countries." In addition, UNCLOS clarifies and delimits seaward territorial claims by coastal states to ensure navigational freedoms while at the same time recognizes U.S. interest as a coastal state with sovereignty to protect its living and non-living marine resources. The result is an appropriate balance between the exclusive interests of coastal states and the interests of maritime states. It limits the maximum breadth of the territorial sea that a coastal state could claim to 12 nautical miles. Our fishery conservation management interests, as reflected in the Magnuson-Stevens Fishery Conservation Management Act of 1977, were instrumental in the international development of the concept of the 200-nautical mile EEZ. In the EEZ all nations enjoy freedoms of navigation and overflight as on the high seas, while the coastal state possesses sovereign rights to protect and exploit the living and non-living marine resources. The U.S., with the world's largest and richest EEZ, is perhaps the greatest beneficiary of this concept. The UN Convention on the Law of the Sea also calls for international cooperation among states in preserving the world's high seas fisheries. An example of such cooperation is the UN ban on high seas drift net fishing and other illegal fishing practices. Each year the Coast Guard patrols the North Pacific to conduct boardings and inspections under the UN Convention on the Law of the Sea on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean. Over two dozen nations participate in this effort, which is a direct outcome of UNCLOS. It also provides a comprehensive framework for the prevention, reduction, and control of maritime pollution. The Coast Guard conducts a wide-ranging port-state-control program to purge our waters of substandard ships, and is assisting other nations in doing the same. The UN Convention on the Law of the Sea carefully balances the rights of coastal states to adopt certain measures to protect the marine environment adjacent to their shores, with the right of a flag state to set and enforce standards and requirements concerning the operation of its vessels. Moreover, it does all this

without unduly burdening international maritime navigation and seaborne trade.

[10:36:38 AM](#)

ADMIRAL COLVIN continued, saying that the Coast Guard relies heavily on the navigational freedoms and overflight rights codified in UNCLOS. These protections allow the use of the world's oceans to meet changing national security requirements. In this regard, worldwide mobility requires undisputed access through international straits and archipelagic waters. The UN Convention on the Law of the Sea ensures that our Coast Guard cutters will have their sovereign immunity protected wherever in the world they may be operating. In addition, UNCLOS limits a nation's territorial sea to no more than 12 nautical miles, beyond which all nations enjoy a high seas navigation regime that includes the freedom to engage in law enforcement activities. Also, UNCLOS codifies the right to operate freely beyond a nation's territorial sea, and protects this right by limiting excessive maritime claims that can have the effect of creating maritime safe havens for drug traffickers and other criminals. Each year nations have questioned the authority of the Coast Guard to contest excessive maritime claims because the U.S. is not a party to UNCLOS. Furthermore, UNCLOS contains effective provisions for dealing with illegal activities at sea. For example, Article 108 requires international cooperation in the suppression of the transport of illegal drugs. The U.S. has aggressively pursued bilateral agreements with many nations that border drug transit zones as well as states with large registries, to facilitate the effective interdiction of vessels suspected of transporting illegal drugs and the eventual prosecution of the drug traffickers. During discussions with these nations, we emphasize UNCLOS's call for cooperation and premise each agreement on concepts codified within UNCLOS. Articles 100-107 detail the international legal principles dealing with acts of piracy at sea. Other provisions prohibit the transport of slaves, the operation of stateless vessels, and other activities in violation of international norms. The UN Convention on the Law of the Sea also contains provisions that enhance our ability to interdict foreign-flagged vessels off our own coasts, and codifies a coastal state's right to establish a 12-nautical mile contiguous zone just beyond the territorial sea, where it may exercise control to prevent and punish infringements of its customs, immigration, fiscal, and sanitary laws. Adoption by the U.S. of an expanded contiguous zone has doubled the area where we can exercise these increased authorities. The benefits of the contiguous zone against

traffickers surreptitiously shipping their illicit products to U.S. shores are clear. As the lead federal agency for maritime safety and security, the Coast Guard believes that U.S. accession to the 1982 UNCLOS would benefit the Coast Guard in its effort to improve maritime safety and ensure the security of our maritime borders, thus promoting homeland security. The UN Convention on the Law of the Sea recognizes that various UN subsidiary bodies may serve as competent international organizations for the further development of certain aspects of the law of the sea. The International Maritime Organization (IMO) has always been recognized as the competent international organization for maritime safety and marine environmental protection. More recently, it has assumed a similar role in port facility and vessel security. The Coast Guard has worked at the IMO to amend the International Convention for the Safety of Life at Sea (SOLAS) for vessel and port facility security to enhance maritime domain awareness through Long Range Identification and Tracking (LRIT) of vessels bound for U.S. ports and waters, and to increase the operational effectiveness of the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA Convention). The negotiations necessary to support efforts such as these take place in the context of the overwhelming number of nations at IMO being parties to UNCLOS. Because of this fact, UNCLOS provides the framework for the discussions and agreements. Although we have enjoyed success in the international security agreements so far, those negotiations have not been easy, and the fact that the U.S. is not a party to UNCLOS, when the overwhelming number of our international partners are parties, has repeatedly placed us in a difficult negotiating position at IMO and other forums. Admiral Colvin summarized, saying he could not express an Administration or Coast Guard position on HJR 19; however, he opined the provisions of UNCLOS fairly balance the interest of coastal nations to control activities off their coast with the freedom of navigation and overflight rights of all nations. The practical effect for the U.S. is to control economic activities within the world's largest EEZ, while enabling our forces and merchant vessels to freely operate in every part of the globe. The UN Convention on the Law of the Sea guarantees our military and transportation industries' critical navigation and overflight rights, and U.S. fishermen enjoy exclusive fishing out to 200 nautical miles. In the view of the Coast Guard, UNCLOS greatly improves its ability to protect the American public as well as its efforts to manage ocean resources and to protect the marine environment. Becoming a party to UNCLOS would significantly enhance its global position in maritime affairs.

[10:43:23 AM](#)

ADMIRAL COLVIN, in response to Chair Herron's question regarding China, said in January a top Chinese admiral stated that because one-fifth of the world's population lives in China, China is entitled to one-fifth of the resources that lie in the international waters of the Arctic. He presented a map which showed unknown Chinese operations on the Chukchi Plateau and Northwind Ridge. In fact, China is "very transparent" in its Arctic policy which is two-fold: maritime transportation of goods to market, and energy.

[10:44:46 AM](#)

CHAIR HERRON observed the English name of the Chinese icebreaker is *Snow Dragon*.

ADMIRAL COLVIN explained China's goal in 2010 was to go to the North Pole, but the ship deviated to the Chukchi Plateau on the way. He then displayed a map of the Arctic showing unclaimed areas, the extended continental shelf claims, and EEZs. He stressed there is nothing illegal under international law about where the Chinese have been operating, and it is within their rights to drill for oil in the Chukchi Plateau, unless the U.S. makes an extended continental shelf claim.

[10:46:12 AM](#)

REPRESENTATIVE KELLER asked how changes are made to UNCLOS in the future.

ADMIRAL COLVIN said he was not an expert on how rules of UNCLOS would be amended.

[10:46:45 AM](#)

REPRESENTATIVE KELLER assumed the process would be an international consensus and the U.S. would be one vote out of all who ratify.

ADMIRAL COLVIN acknowledged that there are legitimate concerns by those who oppose UNCLOS with regards to adjudicating U.S. claims by an international body; however, not signing UNCLOS means the U.S. gives up potential sovereignty over the ocean bottom.

REPRESENTATIVE KELLER advised the U.S. would no longer be able to collect intelligence in territorial waters.

[10:48:11 AM](#)

ADMIRAL COLVIN said there will be no change in the collection of intelligence and the signing of UNCLOS has no bearing on this issue. He expressed his understanding that nations doing Arctic research are required to provide their results to the UN.

REPRESENTATIVE JOULE asked whether there is time sensitivity to acceptance of UNCLOS.

[10:49:30 AM](#)

ADMIRAL COLVIN advised that once a nation ratifies, it has 10 years to establish an extended continental shelf claim. For example, Russia has made claims beyond its continental shelf. Claims up to 350 miles are justified fairly easily, but beyond that there must be science to demonstrate that the continental shelf belongs to the claimant. Russia has extended its claim to the Lomonosov Ridge which extends to the North Pole. Admiral Colvin said this may be a legitimate claim, as Russia has done a lot of science to prove that Lomonosov is part of its continental shelf. However, after 10 years, UNCLOS concluded that the claim was not supported, although Russia was granted a 3-year extension to do so. In further response to Representative Joule, Admiral Colvin clarified that once it ratified UNCLOS, the U.S. would have a 10-year period to make a claim to the area that China has shown an interest in, and he did not know whether the claim could be adjudicated in a shorter timeframe; however, the maximum of time for a claim to the Chukchi Plateau would be 10 years.

[10:52:46 AM](#)

REPRESENTATIVE GARDNER asked whether there were reasons to oppose ratifying UNCLOS in addition to those already discussed.

ADMIRAL COLVIN offered that repeated opposition is due to the perception that the U.S. will give up sovereignty to an international body, but "the reality is almost the exact opposite." By not signing UNCLOS, the U.S. gives up potential sovereignty over, for example, the Chukchi Plateau and Northwind Ridge. He agreed that there may be concerns about having claims adjudicated before an international body, but the only other choice would be wartime activities.

REPRESENTATIVE KELLER provided website locations for organizations that oppose ratification.

[10:55:46 AM](#)

REPRESENTATIVE PAUL SEATON, Alaska State Legislature, recalled he was the prime sponsor of a resolution on the same topic passed by the legislature and submitted to Congress in 2009. Representative Seaton called attention to a document provided by U.S. Senator Lisa Murkowski's staff and included in the committee packet titled, "Eight National Security Myths: United Nations Convention on the Law of the Sea." He pointed out that "Myth 3" deals with intelligence activities and the report concluded "that it did not constrain the United State's intelligence gathering at all." Furthermore, during Representative Seaton's recent trip to Washington D.C., U.S. Senator Roger Wicker addressed legislators, suggesting that the administration should use all efforts to extend jurisdiction and economic claims to oil and gas resources. In addition, the document indicates that if a country does not agree with a dispute resolution, it can refuse to accept that provision.

CHAIR HERRON referred to the previous resolution and asked why Senator Murkowski asked for another.

REPRESENTATIVE SEATON opined she asked because of the importance of the oil and gas reserves that have been identified in the Arctic. Alaska should make clear that it still wants to extend its jurisdiction for access to the resources for economic development purposes.

[11:00:49 AM](#)

REPRESENTATIVE MUNOZ asked how much of the rest of the U.S. is affected by UNCLOS.

[11:01:09 AM](#)

REPRESENTATIVE SEATON responded that affected areas are limited to where the continental shelf goes further out, such as Guam, the Gulf of Alaska, and the Mariana Islands.

REPRESENTATIVE MAX GRUENBERG, Alaska State Legislature, disclosed that he is not an expert in this subject, and informed the committee that a number of past U.S. presidents have recommended ratification of UNCLOS. In 2004, ratification was

unanimously endorsed by the U.S. Senate Committee on Foreign Relations, and urged again in 2007 by a majority of the members in its report. He expressed his support of UNCLOS, but noted that dissenting members of the Senate Committee on Foreign Relations raised the issue of taxation - an opposing argument that has not been raised so far - and because Representative Gruenberg was asked to provide arguments on both sides, he read from their dissent:

Taxes: Article 13, imposes direct "fees" on United States corporations engaged in deep, in seabed mining. Article 82, requires "payments" of up to 7 percent per drilling on the outer continental shelf (OCS) the United States would be assessed for 7 percent of any oil, natural gas, or other resources derived by OCS exploration. The payments would be made directly to the [UN Convention on the Law of the Sea] authority ... which would redistribute the money to the other signatory nations. We believe it is unwise to create an international organization with taxing authority.

REPRESENTATIVE GRUENBERG then explained that the majority report states however, that the understanding ties these related provisions together to make clear that no assent contributions could be decided by the assembly without the agreement of the U.S. in the finance committee. He then called attention to a document in the committee packet titled, "The Senate Should Approve the Law of the Sea Convention Now," and read:

Myth: The Convention gives the UN its first opportunity to levy taxes.

Reality: This is not the UN and there are no taxes on individuals or corporations concerning oil/gas production within 200 miles of shore. The United States gets exclusive sovereign rights to seabed resources within the largest such area in the world. There are no finance related requirements in the Extended Economic Zone concerning oil/gas production beyond 200 miles of shore. The U.S. is one of a group of countries potentially entitled to extensive continental shelf beyond its EEZ. Countries that benefit from the extended continental shelf have no requirements for the first five years of production in the cycle. In the sixth year of production, they are to make payments equal to 1 percent of production increasing by 1 percent a year until capped at 7

percent in the twelfth year of production. If the U.S. were to pay royalties it would be because U.S. oil and gas companies are engaged in successful production beyond 200 miles. But if the treaty is not passed, U.S. companies will likely not be willing or able to engage in oil/gas activities in such areas ... concerning mineral activities, in the deep seabed, which is beyond U.S. jurisdiction, an interested company would pay an application fee for the administrative expenses of processing the application. Any amount that did not get used for processing the application would be returned to the applicant. The Convention does not set forth any royalty requirements for production; the United States would need to agree to establish any. In no event would any payments go to the UN, but rather would be distributed to countries in accordance with the formula to which the United States would have to agree.

REPRESENTATIVE GRUENBERG pointed out that the aforementioned response is to the argument first raised by the minority. However, he opined the real argument is the sovereignty argument, and whether the U.S. would be submitted to binding arbitration or adjudication. In similar cases in the past, the U.S. has chosen binding arbitration, and Representative Gruenberg asked Admiral Colvin whether UNCLOS would affect how the U.S. deals with the Somali pirates. The answer was "no," because the rule of law in Somali would have to be established. Representative Gruenberg observed this explains why UNCLOS is important: There must be a binding mechanism for resolving disputes in order to avoid lawless anarchy. The Somali example is not "a paradigm example of how we want to live ... we will have to arm ourselves in perpetuity because nobody else will help us; it will be every country for itself." He gave another example of the third branch of government established by the U.S. Constitution as a mechanism for resolving disputes; without the third branch of government - the courts - there would be constant disputes between states and no unified, organized system of law. Furthermore, in Alaska, there is also a unified court system throughout the state, that gives up a certain amount of independence, but which allows residents to live freely, without fear.

[11:12:38 AM](#)

REPRESENTATIVE KELLER asked whether Representative Gruenberg was concerned about "activists leveraging the treaty for

accomplishing ends, that we may not be interested." For example, there is potential for UNCLOS to be used by activists to enforce environmental protection issues.

[11:13:59 AM](#)

REPRESENTATIVE GRUENBERG acknowledged that anything is possible. He understood that the U.S. has sidebars to allow it to opt out in certain circumstances to prevent action that is against its national interest. As a matter of fact, he recalled early in the 1970's, there was legislation to establish a deep seabed mining protocol, but it was not pursued, and UNCLOS will allow that to go forward.

[11:15:24 AM](#)

ED PAGE, Executive Director, Marine Exchange of Alaska (MXAK), stated he served 30 years in the Coast Guard and retired to serve as the Executive Director of MXAK 10 years ago. He explained MXAK is a non-profit maritime organization established to provide information and communication services to aid safe, secure, efficient, and environmentally responsible maritime operations. The marine industry, including the membership in MXAK that is comprised of passenger vessel operators, tankers, container ships, tugs, tows, and ports, believes that UNCLOS should be ratified by the U.S. in the best interest of the U.S. maritime industry in Alaska, and to assure environmentally sound maritime operations. His experience with maritime operations around the world shows that the Coast Guard has a positive impact when it has an oversight role. Losing the ability to explore the resources adjacent to the U.S. EEZ will allow vessels from other nations to access these waters, and will cause an elevated level of risk. Mr. Page concluded that endorsing UNCLOS is in the best interest of the U.S. maritime industry and for Alaska's development, business opportunities, safety, and environmental protection.

[11:17:47 AM](#)

CHAIR HERRON observed some are unaware of MXAK's outstanding aspects such as transponders to locate shipping. He praised its service to the state and asked whether ships could still "show up someplace, where nobody knows they came," as happened in Tuktoyaktuk, Northwest Territories, Canada, in 1999.

MR. PAGE advised that international law requires ships to have transponders; in fact, now MXAK observes and tracks foreign

flagged vessels that are near our shores, and provides instantaneous information to the Coast Guard and the state.

11:19:42 AM

WALTER PARKER, President, Parker Associates Inc.; Senior Fellow, Arctic Infrastructure, Institute of the North, pointed out that the resolution looks good, and he heard through the Arctic Council that the situation in the Chukchi and Beaufort Seas is going to become very serious with Russia regarding the seabed and fisheries problems. He referred to written information submitted to the committee on the fisheries' issues. Mr. Parker cautioned that Congress may not take up this issue, the issue of icebreakers, or of providing the Coast Guard the budget needed to "do the job up there," and he expressed his concern that the situation will become more serious because of new alliances between Russia and the Scandinavian nations. There will be a lot of shipping through Bering Straits and UNCLOS is needed to provide strong regional organization, and to enforce the traffic rules. Mr. Parker agreed with the previous speakers in support of the resolution, and noted that he served as one of the two Alaska delegates to the third Law of the Sea Convention and has been working on the issue for a long time. He stated UNCLOS is desperately needed.

11:24:37 AM

CHAIR HERRON closed public testimony and turned attention to page 3, line 5, of the resolution. He offered a conceptual amendment to delete the following words, "a diplomatic blight on its reputation." Hearing no objection to the conceptual amendment, it was so ordered. The resolution was before the committee.

11:26:28 AM

REPRESENTATIVE KELLER said he was very concerned about the resolution and it is not enough to support it just because it passed last year. This issue has been around since 1994, and there are many arguments for and against. He requested that the committee hold the resolution until there is further thought and reflection on the issues. For whatever reason, he said he was not notified of, nor asked about, this committee bill, and does not want to be considered a sponsor of the resolution. Representative Keller urged the committee not to move too quickly, and promised to keep an open mind toward all of the issues.

11:28:09 AM

CHAIR HERRON acknowledged he decided that this committee is the appropriate committee to begin deliberations on the resolution. Although dependent on the wishes of the members, he expressed his intent to move the resolution to the next committee of referral.

11:29:06 AM

REPRESENTATIVE JOULE moved to report HJR 19, 27-LS0608\M, as amended, out of committee with individual recommendations and the accompanying fiscal note.

11:29:52 AM

REPRESENTATIVE KELLER objected. He expressed his concerns about U.S. sovereignty and national security issues, and re-stated the need for more study. For example, it has been reported that a submarine must stay on the surface with its flags flying when in territorial waters.

CHAIR HERRON said his intent is for a full discussion and pointed out that opposing arguments are provided in the accompanying documents; the resolution is in response to a request by Senator Lisa Murkowski.

REPRESENTATIVE GARDNER expressed her complete support for this important resolution, but she indicated that she would support the request from a committee member for further time.

11:33:04 AM

A roll call vote was taken. Representatives Joule, Olson, Munoz, Foster, Thompson, and Herron voted in favor of HJR 19. Representatives Gardner, Tuck, and Keller voted against it. Therefore, HJR 19(EDT) was reported out of the House Special Committee on Economic Development, International Trade and Tourism by a vote of 6-3.

11:33:09 AM

The committee took an at-ease from 11:33 a.m. to 11:35 a.m.

11:35:45 AM

CHAIR HERRON advised he requested the co-chairs of the next committee of referral to hear additional testimony on HJR 19 from resource development entities.

HB 160-TOURISM MARKETING CONTRACTS/CAMPAIGNS

[11:36:05 AM](#)

CHAIR HERRON announced that the final order of business would be HOUSE BILL NO. 160, "An Act establishing and relating to the Alaska visitor industry investment fund; relating to matching funds for state tourism marketing contracts with qualified trade associations; and providing for an effective date."

CHAIR HERRON stated his intent to discuss and hold the bill for amendments that are not ready at this time and to hear related discussion by the House Finance Committee. He called attention to Amendment 1, labeled 27-LS0509\I.1, Bannister, 2/28/11, which read:

Page 2, line 27:

Delete "\$2,700,000 [AT LEAST"

Insert "at least \$2,700,000 ["

CHAIR HERRON, in response to Representative Joule, said work draft Version I was before the committee. In response to Representative Tuck, he clarified that "the \$2.7 will become the floor, rather than the ceiling."

[11:38:59 AM](#)

REPRESENTATIVE MUNOZ asked for the total amounts collected in the three tax areas of vehicle rental tax (VRT), recreational tax, and corporate tax associated with tourist activities.

TERRY HARVEY, Staff, Representative Cathy Munoz, Alaska State Legislature, referenced a fiscal note from the Department of Revenue (DOR) that indicated \$7.3 million in VRT in 2009, and \$8 million in 2010. He deferred to DOR for details.

[11:40:28 AM](#)

JOHANNA BALES, Deputy Director, Anchorage Office, Tax Division, Department of Revenue, informed the committee the effective date of the legislation is July 1, 2011, thus for this calculation

the division would look at revenues received in 2009-2011. The division has data for 2009-2010, and for VRT the state collected \$7.3 million in 2009, \$8 million in 2010, and estimates \$7.5 million will be collected in fiscal year 2011 (FY 11). Furthermore, for tourism corporate income tax the state collected approximately \$21.4 million in 2009, \$5.1 million in 2010, and estimates \$5.5 million will be collected in 2011. Total revenue collected and estimated for three years is approximately \$54.8 million, and 30 percent of that is \$16.4 million. Ms. Bales advised the first amount directed into the sub fund in the general fund would become the "floor" for future years.

REPRESENTATIVE MUNOZ asked whether the industry-to-state match is a 70 percent to 30 percent split.

MS. BALES deferred the question to DCCED.

[11:43:00 AM](#)

MR. HARVEY said his understanding is that currently the industry is operating under a 70 percent state and 30 percent industry match. In response to Chair Herron, he said this arrangement will expire at the end of this fiscal year.

[11:43:34 AM](#)

REPRESENTATIVE MUNOZ recalled that this year the governor made a larger commitment to the tourism industry and asked for that percentage.

MR. HARVEY stated that the governor has proposed an additional \$7 million; however, he was unsure of what percentage that would be.

REPRESENTATIVE KELLER surmised this may be viewed as unconstitutional because it may be dedicated funds.

MR. HARVEY explained this is an annual amount of money that is subject to appropriation and identified in statute as funds based on revenue from the tourism industry, and thus is not considered a dedicated fund. He suggested hearing further testimony on this issue from the commissioner of DCCED.

[11:45:16 AM](#)

REPRESENTATIVE KELLER described the reason for his interest, saying that the proceeds are for a particular purpose, and requested a review of the criteria by legal services.

CHAIR HERRON indicated he would direct staff to obtain a response from Legislative Legal and Research Services, Legislative Affairs Agency. In response to Representative Olson, he said a response would also be obtained from the Attorney General, Department of Law, and distributed to the committee.

REPRESENTATIVE GARDNER observed that if the funding is subject to appropriation each year, the legislature could refuse or change the amount. She surmised the bill simply makes a recommendation for what future legislators should appropriate.

MR. HARVEY agreed, and asked for the viewpoint of the commissioner of DCCED.

[11:47:22 AM](#)

REPRESENTATIVE GARDNER turned to the amendment, and asked whether passage of the amendment means that if the marketing campaign is \$10 million, the industry is paying less, and if the marketing campaign is \$5 million, the industry is paying more.

[11:48:04 AM](#)

SUSAN BELL, Commissioner, Department of Commerce, Community & Economic Development (DCCED), concurred with Representative Gardner's statement, and said the bill addresses visitor industry-generated revenues, to make a connection between the health of the visitor industry, restoring its growth, and establishing a fund that preserves the legislature's power of appropriation in Section 2, subsection (a).

REPRESENTATIVE GARDNER then asked for the historical cost of the marketing campaign contract.

COMMISSIONER BELL advised last year there was a 60 percent increase in the state contribution from \$9 million to \$16 million, bringing the total ATIA marketing contract to \$18.7 million. She reviewed the contract process and the decline in tourism visitors, and said increasing the state's marketing program was a significant piece in restoring visitor interest in Alaska. Thus, the total marketing campaign has grown from a state contribution of about \$9 million and an industry

contribution of \$2.7 million, to a state contribution of \$18.7 million.

[11:50:55 AM](#)

REPRESENTATIVE GARDNER understood that according to the original bill draft, matching funds would be about \$9.35 million; however, if the amendment passes, matching funds would be \$2.7 million, which is a savings to the qualified trade organization of about \$5.65 million in the year under discussion.

[11:51:33 AM](#)

COMMISSIONER BELL said correct. She further noted that the current 70 percent to 30 percent match will sunset and become a 50 percent to 50 percent match; however, since the time of the original contract in 1999, there has been a change in the composition of taxes and fees on the industry. For example, VRT now brings in between \$7-\$8 million annually, and there is income from a suite of taxes and fees enacted by the Alaska Shipping Tax Initiative of 2006, Ballot Measure 2. Although revenue from the ballot measure has been "rolled back," the landscape of the state collection of industry-related taxes and fees has changed. In addition, the industry trade organization collects the fees from its members.

REPRESENTATIVE KELLER, observing that the industry's need is measured by the number of visitors to Alaska, asked for the length of time required to judge the marketing campaign's success.

[11:53:43 AM](#)

COMMISSIONER BELL related the travel industry feels the state's marketing efforts are insufficient. Her experience was that the state's marketing investment in the '90s was higher; in fact, the state's investment has dropped, and the market and competition has changed due to the terrorist attacks of September 11, 2001, and the response to the economic decline by other tourism destinations. Commissioner Bell confirmed that DCCED monitors the volume of visitors to indicate the health of the industry, and she concluded that the state's previous marketing budget of \$11 million is insufficient "to achieve the presence that we wanted."

REPRESENTATIVE KELLER suggested "a sunset on this" would ensure that the effectiveness is measured.

COMMISSIONER BELL indicated there are tools to assess the success of the marketing plan such as a sunset, the power of appropriation, and the legislature's ability to question DCCED.

[11:56:18 AM](#)

REPRESENTATIVE THOMPSON referred to the proposed transportation highway bill that would be funded by a percentage of VRT.

COMMISSIONER BELL affirmed that there is a proposed bill competing for a percentage of VRT revenue, but she was unsure of the percentage affected.

[11:57:18 AM](#)

REPRESENTATIVE GARDNER pointed out that between 2009 and 2010, corporate income tax related to tourism went down about 75 percent, and VRT went down about 10 percent. She asked whether a large portion of VRT is not tourism-related.

COMMISSIONER BELL explained that VRT is collected at the time of sale; however, corporate income taxes are affected by other factors. She deferred to Ms. Bales for details.

[11:58:38 AM](#)

REPRESENTATIVE OLSON relayed his growing concern that the proposed legislation codifies a level of expectation that may not be sustained. He opined the funding of this program and others may still be best handled on a year-by-year basis.

REPRESENTATIVE KELLER observed that VRT would include cars rented for purposes other than tourism. He asked whether an exemption for other uses would avoid a "dedicated fund" situation.

[12:00:30 PM](#)

CHAIR HERRON asked for the administration's stand on the proposed committee substitute (CS) for HB 160.

[12:01:20 PM](#)

COMMISSIONER BELL informed the committee the governor was briefed on the proposed CS; in fact, the governor continues to

consider a healthy visitor industry a priority and "he still remains comfortable with it."

HB 160 was heard and held.

[12:02:09 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.