

**ALASKA STATE LEGISLATURE  
HOUSE RESOURCES STANDING COMMITTEE**

March 8, 2010

1:04 p.m.

**MEMBERS PRESENT**

Representative Craig Johnson, Co-Chair  
Representative Mark Neuman, Co-Chair  
Representative Bryce Edgmon  
Representative Kurt Olson  
Representative Paul Seaton  
Representative Peggy Wilson  
Representative David Guttenberg  
Representative Scott Kawasaki  
Representative Chris Tuck

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

HOUSE JOINT RESOLUTION NO. 49

Urging the United States Congress to enact S.J. Res. 26, a resolution disapproving the Environmental Protection Agency's imposition of climate regulations that would harm Alaska's economy and the livelihoods of the state's citizens.

- MOVED CSHJR 49(RES) OUT OF COMMITTEE

CS FOR SENATE JOINT RESOLUTION NO. 22(RES)

Opposing litigation that seeks to eliminate the Kenai, Kasilof, and Chitina sockeye salmon personal use dip net fisheries.

- MOVED HCS CSSJR 22(FSH) OUT OF COMMITTEE

HOUSE BILL NO. 306

"An Act declaring a state energy policy."

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HJR 49

SHORT TITLE: OPPOSING EPA CLEAN AIR ACT REGULATIONS

SPONSOR(S): REPRESENTATIVE(S) STOLTZE

02/23/10 (H) READ THE FIRST TIME - REFERRALS  
02/23/10 (H) RES  
03/08/10 (H) RES AT 1:00 PM BARNES 124

BILL: SJR 22

SHORT TITLE: FEDERAL PREEMPTION OF SALMON MANAGEMENT  
SPONSOR(s): SENATOR(s) HUGGINS

04/09/09 (S) READ THE FIRST TIME - REFERRALS  
04/09/09 (S) RES, JUD  
04/15/09 (S) RES AT 3:30 PM BUTROVICH 205  
04/15/09 (S) Moved CSSJR 22(RES) Out of Committee  
04/15/09 (S) MINUTE(RES)  
04/16/09 (S) RES RPT CS 3DP 2NR NEW TITLE  
04/16/09 (S) DP: MCGUIRE, WIELECHOWSKI, HUGGINS  
04/16/09 (S) NR: STEVENS, WAGONER  
04/16/09 (S) JUD REFERRAL WAIVED  
04/17/09 (S) TRANSMITTED TO (H)  
04/17/09 (S) VERSION: CSSJR 22(RES)  
04/17/09 (H) RES AT 8:30 AM BARNES 124  
04/17/09 (H) <Bill Hearing Canceled>  
04/18/09 (H) READ THE FIRST TIME - REFERRALS  
04/18/09 (H) FSH, RES  
02/09/10 (H) FSH AT 10:15 AM BARNES 124  
02/09/10 (H) Moved HCS CSSJR 22(FSH) Out of  
Committee  
02/09/10 (H) MINUTE(FSH)  
02/10/10 (H) FSH RPT HCS(FSH) 4DP 2NR 1AM  
02/10/10 (H) DP: JOHNSON, MILLETT, KELLER, MUNOZ  
02/10/10 (H) NR: BUCH, EDGMON  
02/10/10 (H) AM: KAWASAKI  
03/01/10 (H) RES AT 1:00 PM BARNES 124  
03/01/10 (H) Scheduled But Not Heard  
03/08/10 (H) RES AT 1:00 PM BARNES 124

BILL: HB 306

SHORT TITLE: STATE ENERGY POLICY  
SPONSOR(s): ENERGY

01/19/10 (H) READ THE FIRST TIME - REFERRALS  
01/19/10 (H) ENE, RES  
01/26/10 (H) ENE AT 3:00 PM BARNES 124  
01/26/10 (H) Heard & Held  
01/26/10 (H) MINUTE(ENE)  
01/28/10 (H) ENE AT 3:00 PM BARNES 124  
01/28/10 (H) Heard & Held

01/28/10 (H) MINUTE(ENE)  
 02/02/10 (H) ENE AT 3:00 PM BARNES 124  
 02/02/10 (H) Moved CSHB 306(ENE) Out of Committee  
 02/02/10 (H) MINUTE(ENE)  
 02/05/10 (H) ENE RPT CS(ENE) 7DP  
 02/05/10 (H) DP: RAMRAS, DAHLSTROM, PETERSEN, TUCK,  
 JOHANSEN, EDGMON, MILLETT  
 03/08/10 (H) RES AT 1:00 PM BARNES 124

**WITNESS REGISTER**

JOHN COAN, Staff  
 Representative Bill Stoltze  
 Alaska State Legislature  
 Juneau, Alaska

**POSITION STATEMENT:** Introduced HJR 49 on behalf of  
 Representative Stoltze, sponsor.

MARY SHIELDS  
 Fairbanks, Alaska

**POSITION STATEMENT:** Opposed HJR 49.

CARL STRALEY (ph)  
 No address provided

**POSITION STATEMENT:** Opposed HJR 49.

JOE GELDHOF  
 Alaska Climate Action Network  
 Juneau, Alaska

**POSITION STATEMENT:** Opposed HJR 49.

SHARON LONG, Staff  
 Senator Charlie Huggins  
 Alaska State Legislature  
 Juneau, Alaska

**POSITION STATEMENT:** Introduced SJR 22 on behalf of Senator  
 Huggins, sponsor.

BRIAN KANE, Attorney  
 Legislative Legal Counsel  
 Legislative Legal and Research Services  
 Legislative Affairs Agency  
 Juneau, Alaska

**POSITION STATEMENT:** During the hearing on SJR 22, answered  
 questions.

ROD ARNO, Executive Director

Alaska Outdoor Council (AOC)  
Fairbanks, Alaska

**POSITION STATEMENT:** Supported SJR 22.

REPRESENTATIVE CHARISSE MILLETT

Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Introduced HB 306 on behalf of the House Special Committee on Energy, sponsor.

#### **ACTION NARRATIVE**

[1:04:53 PM](#)

**CO-CHAIR MARK NEUMAN** called the House Resources Standing Committee meeting to order at 1:04 p.m. Representatives Olson, Guttenberg, P. Wilson, Johnson, and Neuman were present at the call to order. Representatives Kawasaki, Tuck, Seaton, and Edgmon arrived as the meeting was in progress.

#### **HJR 49-OPPOSING EPA CLEAN AIR ACT REGULATIONS**

[1:05:14 PM](#)

CO-CHAIR NEUMAN announced that the first order of business is HOUSE JOINT RESOLUTION NO. 49, Urging the United States Congress to enact S.J. Res. 26, a resolution disapproving the Environmental Protection Agency's imposition of climate regulations that would harm Alaska's economy and the livelihoods of the state's citizens.

[1:05:47 PM](#)

JOHN COAN, Staff, Representative Bill Stoltze, Alaska State Legislature, began by noting that the sponsor has worked closely with U.S. Senator Lisa Murkowski on the issue of climate regulations. He said HJR 49 is a resolution disapproving the U.S. Environmental Protection Agency's (EPA) intention to use the Clean Air Act to impose backdoor climate regulations. Such regulations would be hurtful to all economic areas of Alaska and would include any areas that produce greenhouse gases, such as Alaska's refineries, pipelines, hospitals, and other entities. In response to Co-Chair Neuman, he said the sponsor is worried that many of the major economic drivers of the state would be severely impacted by any greenhouse gas and environmental regulations imposed by the EPA. Over 80 percent of Alaska's

unrestricted general fund revenue comes directly from oil and gas.

1:07:33 PM

MR. COAN pointed out that a November 3, 2009, letter from Governor Parnell to U.S. Senators Boxer and Inhofe states that Alaska produces approximately 13 percent of the nation's oil supply. Alaska's economy relies heavily upon responsible development of natural resources, unburdened by superfluous regulations; the sponsor therefore feels this message to stop the EPA from commencing on this path must be sent to Alaska's congressional delegation as well as the rest of the U.S. Congress. He said the U.S. Environmental Protection Agency is in the position now of using its endangerment finding, which is a scientific study based on six greenhouse gas emissions, to create economy-wide command and control regulations that would stifle the economic development of Alaska. The climate regulations would be fundamentally detrimental to Alaska's economy, stifle the state's economic development, and potentially create enormous job losses within the state.

1:09:05 PM

REPRESENTATIVE GUTTENBERG asked who the sponsor seeks to influence with this resolution.

MR. COAN responded that HJR 49 urges the U.S. Congress to enact U.S. Senator Lisa Murkowski's Senate Joint Resolution 26, a resolution that would disapprove the U.S. Environmental Protection Agency's rule relating to the endangerment finding and the cause or contribute findings for greenhouse gases under section 202(a) of the Clean Air Act.

REPRESENTATIVE GUTTENBERG inquired whether there is an upside to changing the carbons emissions.

MR. COAN replied the upsides are very minimal and most of the literature seen by the sponsor has been to the negative. He said he will get back to Representative Guttenberg in this regard.

CO-CHAIR JOHNSON interjected he is unsure he could ever see an upside to having a non-elected bureaucracy making decisions. The resolution says this issue should be put in the hands of elected officials who go home to face their constituents.

[1:12:04 PM](#)

REPRESENTATIVE KAWASAKI requested an explanation of section 202 of the Clean Air Act.

MR. COAN answered that section 202 deals specifically with motor vehicle emissions and fuel standards and the curtailing of emissions from the tailpipes of passenger cars, buses, trucks, off-road vehicles, and construction equipment. It is a progressive limitation.

CO-CHAIR NEUMAN requested Mr. Coan to provide copies of section 202 to committee members.

[1:13:39 PM](#)

REPRESENTATIVE KAWASAKI inquired how long section 202 has been around and why it is impacting the state today as opposed to 10 or 20 years ago.

MR. COAN responded he does not know, but he believes section 202 has been around since the act went through and, if not, then it was part of the amendment in the 1970s.

CO-CHAIR JOHNSON offered his belief that there has been a real reluctance by previous administrations to enact such wide-sweeping changes through an agency rather than the U.S. Congress. However, this administration's policy is different as it is exhibiting the willingness to enact laws and to inflict great pain on states through regulations and not through laws.

[1:15:13 PM](#)

REPRESENTATIVE OLSON stated that the underlying research [on climate change] is flawed to an unknown degree and for that reason he supports HJR 49.

REPRESENTATIVE GUTTENBERG asked whether someone will be testifying to that effect instead of just making statements about it being flawed.

CO-CHAIR NEUMAN suggested the sponsor could be asked to find someone to look into that.

CO-CHAIR NEUMAN requested Mr. Coan to talk about what other countries are doing in regard to carbon emissions.

MR. COAN answered that his research was specifically on the two vehicles in the U.S. Senate - House Resolution 2454 and Senate Bill 1733. However, the sponsor believes that the Kyoto Protocol is the wrong vehicle to pursue these standards; rather, it should be taken care of by the U.S. Congress. While he is not up on the latest globally, he believes that the push is for some measure to control greenhouse gas emissions. He is unsure of the most common or best vehicle out there, but he is sure U.S. Senator Murkowski's office has looked into that more thoroughly than he has.

1:17:31 PM

CO-CHAIR NEUMAN inquired whether the U.S. Environmental Protection Agency would be imposing taxes on carbon emissions.

MR. COAN responded the sponsor feels that could very well be the case. If the "cap and trade" tax goes into effect, federal revenues would go into the billions of dollars and there would be detriments throughout the economy due to industries having to be curtailed. In further response, he explained that if House Resolution 2454 and Senate Bill 1733 are enacted the nation would be allotted to produce only so much in greenhouse gases and this would also go back into the endangerment finding because it might become a more severe imposition of these restrictions. The nation's allotment would have to be divided amongst all its industries and the industries would have to pay to get their share; this tax is where the federal revenues would come in. The sponsor feels this would be especially unfair for Alaska due to the state's size, population, arctic climate, and so forth, and would unfairly hamper the state.

1:19:39 PM

REPRESENTATIVE KAWASAKI inquired whether a senate joint resolution by the U.S. Congress has the full effect of law.

MR. COAN replied he is unsure, but he does know from a recent conversation with the National Federation of Independent Business (NFIB) that Senate Joint Resolution 26 would have to be heard on the floor.

REPRESENTATIVE GUTTENBERG surmised that Senate Joint Resolution 26 has not yet been heard.

REPRESENTATIVE KAWASAKI asked whether the Alaska State Legislature is being asked to weigh in on a congressional

resolution even though it is unknown what a congressional resolution does. In response to Co-Chair Neuman, he clarified that he is asking what Senate Joint Resolution 26 actually does and whether it is the sponsor's intent with HJR 49 to support a resolution in Congress that has no effect of law.

MR. COAN said the question is out of his realm of expertise. However, he could say for sure that as a disapproval resolution, HJR 49 has a place to go.

1:21:49 PM

REPRESENTATIVE GUTTENBERG, in regard to the whereas clause on page 3, line 17, offered his belief that development of an Alaska gas pipeline would be promoted, not made harder, should high carbon emission fuels become detrimental. In response to several questions from Co-Chair Neuman, he stated that if oil cannot be used there would be pressure to find a replacement, and gas would be one of the main replacement fuels. While the intent is to keep the U.S. Environmental Protection Agency from doing things that committee members think it should not be doing, he thinks members need to have a better understanding given that gas development in Alaska is the committee's main concern. He thinks that rather than hampering development of an Alaska gas pipeline, it would be enhanced, and therefore this whereas clause should not be included in HJR 49.

MR. COAN responded that this whereas clause is specifically about the construction of a gas pipeline. If the EPA gets its hands around this specific regulatory ability, it might be able to stymie the actual construction of the pipeline due to the greenhouse gas that would be produced by the bulldozers and other construction equipment.

REPRESENTATIVE GUTTENBERG added that if greenhouse gases become the important thing, then alternative fuels will need to be developed and he thinks gas is it. Thus, he does not think the proposed gasline would be hurt and Alaska would be hurting itself by including this whereas.

CO-CHAIR NEUMAN opened public testimony.

1:27:09 PM

MARY SHIELDS requested each committee member to state whether he or she thinks climate change has positive or negative effects on Alaska.

CO-CHAIR NEUMAN replied that committees do not generally answer questions from the public. He asked whether Ms. Shields is representing herself.

MS. SHIELDS said she is representing herself and believes that Congress will not be passing any legislation to decrease greenhouse emissions because its members are pre-occupied with getting re-elected, not finding solutions. Solutions require people to change behavior and she recognizes that changing behavior is uncomfortable. Fairbanks has a serious air quality problem, yet people are unwilling to trade in their old wood stoves for cleaner, more efficient new ones. Congress is not composed of scientists, while the EPA employs professional scientists who understand the problems and create scientific solutions. Alaska is probably being impacted by climate change more than any other place in the world. For example, Fairbanks has had very warm weather this winter and things are thawing early. People who live on permafrost are having severe problems and repair of roads and infrastructures will be much more expensive in 10 years than dealing with the problem now. She urged that U.S. Senator Murkowski's resolution not be endorsed and instead the EPA's scientists should be relied upon and their suggestions be followed on how Alaska can be a part of solving the problem rather than contributing to the problem.

[1:30:38 PM](#)

MS. SHIELDS related that the first paragraph of Alaska's constitution states dedication to the principles that all persons have a natural right to life, liberty, the pursuit of happiness, and the enjoyment of rewards of their own industry, and that all persons have corresponding obligations to the people and to the state. Thus, even if businesses lose a little money on this, they have an obligation to provide that natural right to life, and life is in trouble in Interior Alaska. Cooling off the environment would help keep the permafrost from thawing and would help the Interior's trees from becoming even more infected with insects, which in turn increases the tinder problem for wildfires. She asked committee members to be brave enough to stand up for what really needs to be done.

CO-CHAIR NEUMAN urged Ms. Shields to visit the legislature's website should she wish to ask questions of legislators or submit her viewpoints via public opinion messages.

REPRESENTATIVE GUTTENBERG noted that Ms. Shields lives in his district and runs a recreational dog mushing facility.

[1:32:27 PM](#)

CARL STRALEY (ph) stated he believes HJR 49 is misguided and shortsighted, as is Senate Joint Resolution 26. The world is coming to grips with carbon emissions being a problem for the climate as well as the acidity of the oceans, something that may already be impacting Alaska's fisheries. Scientists in the Environmental Protection Agency formulate the regulations based on science. Elected officials have an important role, but they are not scientists and do not necessarily understand the subtleties of atmospheric and oceanic chemistry; therefore, he does not think it is their place to step in and make short-sighted decisions to inhibit the ability of the EPA to do its job. He said HJR 49 is an inappropriate resolution and discouraged its passage.

[1:35:01 PM](#)

JOE GELDHOF, Alaska Climate Action Network, said his organization is interested in energy policy and the impacts of climate change on Alaska. No other state in the U.S. needs energy legislation more than Alaska. While Alaska is a huge oil producer, the high cost of diesel is literally destroying the state's communities and needs to be addressed. He related that there is federal legislation companion to legislation now being considered by Alaska's legislators and that that federal legislation is critical to the success of Alaska in terms of economy and environment. He urged committee members to work with their colleagues to come up with a better, more positive resolution that is oriented to the actual needs of Alaska and the nation. Alaska's legislators know the building blocks that are needed to move forward with a coherent national energy policy; for example, Alaska needs federal loan guarantees of approximately \$40 billion to move Alaska's gas to market. Alaska clearly needs the federal resources that go with the adaptation and mitigation of issues; one issue being communities that are literally falling into the ocean and rivers.

[1:38:17 PM](#)

MR. GELDHOF further noted that Alaska is directly involved with troop deployments that are intimately related with national security and energy policy. All the polling data in Alaska and most of the polling data in the U.S. indicate that citizens want

to reduce the nation's almost suicidal dependence on foreign energy sources. He urged members to step back and re-calibrate this, and in a positive way give U.S. Senators Lisa Murkowski and Mark Begich what Alaska wants to see in an energy bill. Alaska's legislators are like President Obama and the administrator of EPA in that no one wants to have to do any of this.

1:40:15 PM

MR. GELDHOF stated that, according to discussions he has had with U.S. Senator Lisa Murkowski and her staff, the likelihood of Senate Joint Resolution 26 passing the U.S. Senate is close to zero and signing by the president is zero. Alaskans should not get balled up in the politics of Washington, DC. Instead, Alaska should provide the building blocks that are necessary to move forward, be it loan guarantees or anything else. The cap and trade bill is essentially dead. Alaska's legislators can contribute to a decent energy bill. He noted that when confronted with the ozone layer issue 25 years ago, then-President Ronald Reagan took the advice of the scientists and worked off the Montreal Protocol. Alaska can come up with something positive by working on this rather than reducing itself to partisan bickering and being against everything.

1:43:06 PM

CO-CHAIR NEUMAN disagreed that it is all politics because resolutions coming before Alaska's legislators drive discussion and that is a positive step. Policy makers put forth much effort to be informed when making decisions. Legislators are working on an in-state gasline as well as getting gas to America, which would reduce carbon emissions. He asked whether the Alaska Climate Change Network supports the Alaska gas pipeline and getting gas to the Lower 48.

MR. GELDHOF responded, "Absolutely." He said he thinks most everyone who has looked at the use of energy believes that gas, particularly Alaska gas, holds great potential as a bridge fuel. He is not saying that legislators have not been working on this issue arduously; rather, his plea is that legislators take their knowledge about what is needed to unlock Alaska's gas potential and unlocking hydropower to solve the debilitating use of diesel in the Bush. That would become part of the punch list for a resolution about what Alaska wants and how to build a federal plan via the U.S. Congress.

[1:48:33 PM](#)

REPRESENTATIVE KAWASAKI inquired whether Mr. Geldhof considers HJR 49 to be a partisan resolution.

MR. GELDOLF replied it depends upon the glasses one is wearing as to whether it is partisan. He said his guess is that all of the committee members agree on the substance of what is needed. For example, would there be any disagreement that \$40 billion in federal loan guarantees is needed to move Alaska's gas? Agreement on that would not be partisan and would be useful to U.S. Senator Lisa Murkowski, he said.

REPRESENTATIVE KAWASAKI pointed out that the very first line of HJR 49 says it is the President of the United States and members of the President's party that are trying to enact this climate legislation; therefore, to him, the resolution has a partisan tinge.

CO-CHAIR NEUMAN closed public testimony after ascertaining no one else wished to testify.

[1:50:53 PM](#)

CO-CHAIR JOHNSON said he wholeheartedly supports HJR 49. He said that when the U.S. Environmental Protection Agency shuts down the ability of the Fairbanks witnesses to use wood or pellet stoves to generate heat, they will be calling Alaska's congressional delegation and their state legislator. In turn, since the congressional delegation did not make the policy, the witnesses will be told to call a nameless, faceless bureaucrat that made this policy. He said HJR 49 would affix accountability to the local officials elected by the state's citizens.

[1:52:38 PM](#)

REPRESENTATIVE EDGMON supported HJR 49 and related that U.S. Senator Lisa Murkowski is eager to receive this resolution. While he concurs about the larger issue of setting energy policy, scientific analysis does not take into account the economic effects. Sometimes a forceful message must be sent and he agrees with the resolution's intent.

[1:54:38 PM](#)

REPRESENTATIVE P. WILSON stated that if the climate issue was cut and dried, members would not have to be talking about it. She wants to listen to what the researchers and scientists say, but they are divided about what needs to be done. Actions could be taken that cost the state billions of dollars in the long run for things that do not even happen in the long run. She said that for those reasons she believes every angle must be looked at. Legislators care and are trying to be careful in their deliberations. People have put faith in their legislators and hold legislators accountable and this resolution expresses legislators' concerns. Given this, and that a lot of questions remain unanswered, she supports HJR 49.

CO-CHAIR JOHNSON related that according to a text message he just received from the counsel for the U.S. Senate Committee on Energy, Senate Joint Resolution 26 would have the force of law. In response to Representative Guttenberg, he agreed that it does have to pass the U.S. House of Representatives as well.

[1:57:50 PM](#)

REPRESENTATIVE TUCK agreed with the previous witness that opportunities to direct change should be taken and that it not be jabs at people or situations. Such opportunities allow Alaska to lay out its energy needs; for example, renewable energy should include hydropower. He said he does not want to debate whether climate is manmade or natural, but care must be taken to not make jabs at people. In this regard, he offered Conceptual Amendment 1 to remove on page 1, line 5, the words "the President's party in".

MR. COAN, in response to Co-Chair Neuman, stated that Conceptual Amendment 1 would be fine with the sponsor.

There being no objection, Conceptual Amendment 1 was adopted.

[2:01:07 PM](#)

REPRESENTATIVE SEATON pointed out that he agrees with the language on page 4, [lines 8-10], regarding support of measures by the U.S. Congress for encouraging investments in technology to reduce carbon dioxide and greenhouse gas emissions. However, he said it appears to him that the second, third, and fourth whereas clauses on page 1 oppose the legislation that is before the U.S. Congress. He said he is just pointing out this apparent conflict and not offering an amendment. He added that HJR 49 does not include anything about ocean acidification,

which he thinks should be included. He suggested it also be said that this legislature has looked at dealing with carbon emissions because the Alaska Gasline Inducement Act (AGIA) requires that the pipeline builder identify how it will handle the carbon emission that will be used in the transmission of that gas. He said today's public testimony makes it sound like the legislature has not dealt with carbon emissions when it has.

[2:03:50 PM](#)

REPRESENTATIVE KAWASAKI noted that he still does not know what House Resolution 2454 actually does.

MR. COAN responded that House Resolution 2454, the American Clean Energy and Security Act of 2009, and Senate Bill 1733, the Clean Energy Jobs and American Power Act, are both vehicles that institute the ability for these EPA mandates to come about. These measures open it up for "cap and trade" and they are brought up in HJR 49 because they are in Congress and will allow this to happen.

CO-CHAIR NEUMAN commented that the committee is debating HJR 49, not the bills in Congress.

[2:05:43 PM](#)

REPRESENTATIVE SEATON requested Mr. Coan to address the apparent conflict that he brought up earlier.

MR. COAN replied the purpose is to stop this vehicle of the U.S. Environmental Protection Agency, through the Clean Air Act, to regulate greenhouse gases; the sponsor wants to keep this in the hands of elected officials who have some accountability to constituents. The first whereas clause on page 1 states that [House Resolution 2545 and Senate Bill 1733] are improper vehicles for this to come about. While the sponsor believes that greenhouse gases are a real thing and are having an effect, the sponsor does not want the control to come from an outside entity that has the ability to come in and take over everything.

[2:08:00 PM](#)

REPRESENTATIVE SEATON said he does not have a problem with that; however, it seems incongruous to oppose bills that are currently in Congress [page 1] while asking that Congress pass measures [on page 4]. He asked Mr. Coan to explain why those two are not incongruous.

MR. COAN answered that House Resolution 2454 and Senate Bill 1733 are setting out the ability for the "cap and trade" requirements to come into effect as well as the EPA to take over the greenhouse gas emissions. The bills are included in HJR 49 to illustrate where they are currently at in Congress. The two bills would result in unnecessary regulation and economic interference by the federal government. It goes back to the issue of nameless, faceless bureaucrats rather than to constituent accountability.

CO-CHAIR NEUMAN urged Representative Seaton to discuss this further with Representative Stoltze.

[2:10:47 PM](#)

REPRESENTATIVE GUTTENBERG commented to Co-Chair Johnson that if the Fairbanks North Star Borough, by a vote of the people, takes the authority away from EPA to come up with a solution to the wood stove and clean air issue, and if the people come back to the legislature, then it is because the legislature did not act and not because the EPA over-reacted. He offered his hope that the borough does come up with a solution to that problem.

REPRESENTATIVE GUTTENBERG continued, noting that a lot of things in HJR 49 are troubling in regard to policy and how they are said. It would have been much easier to make the one small amendment and support the resolution unanimously. Based upon his conversations with people who have observed Congress, he thinks the Alaska legislature deals more with energy issues than does Congress, as well as all national issues such as salmon and ocean policy. Therefore, Alaska legislators have a better understanding than most members of Congress. Regardless of the administration, when people from Washington, DC, come to Alaska they always say how they had not really known what Alaska was actually like until seeing it personally. In a resolution like HJR 49, the legislature could have taken the high road and laid it out for them instead of complaining about things. It is a given that the desire is for the elected officials to make the policy. He agreed there are conflicts with some of the resolution's statements and some of the things the legislature is working on. He said he does not think HJR 49, in its current form, "gets us there."

[2:14:27 PM](#)

REPRESENTATIVE SEATON offered Conceptual Amendment 2 to remove the second, third, and fourth whereas clauses on page 1, lines 8-15, continuing to line 1 on page 2.

CO-CHAIR JOHNSON objected.

CO-CHAIR NEUMAN objected.

REPRESENTATIVE SEATON explained he is offering Conceptual Amendment 2 because he thinks there is another resolution before the legislature that opposes House Resolution 2454 and Senate Bill 1733, and that other resolution has not come before this committee. Therefore, incorporating this language into HJR 49 is like members are presuming to oppose a resolution that they have not passed. He reiterated his earlier opinion that the second resolve language on page 4 is incongruous with the second, third, and fourth whereas clauses on page 1. In response to Co-Chair Johnson, he stated that Conceptual Amendment 2 would take out all of the references to House Resolution 2454 and Senate Bill 1733 for which there is no factual information available to committee members.

[2:17:58 PM](#)

CO-CHAIR JOHNSON understood the sponsor worked closely with U.S. Senator Lisa Murkowski's office on drafting HJR 49.

MR. COAN nodded yes.

CO-CHAIR JOHNSON asked whether the third whereas on line 14, page 1, specifically came from the senator's office and that it is her opinion that support in the U.S. Congress for House Resolution 2454 and Senate Bill 1733 has weakened.

MR. COAN responded correct.

CO-CHAIR JOHNSON inquired whether the first and second whereas clauses on page 1 also came from U.S. Senator Lisa Murkowski.

MR. COAN replied these two were run through the senator's office, but were part of the sponsor's original draft. They are more to paint the big picture of where the congressional legislation is, are they are dealt with more in HJR 45, the "cap and trade" resolution.

[2:19:00 PM](#)

CO-CHAIR JOHNSON expressed his support for deleting the first two whereas clauses, but not the third. He offered a friendly amendment to exclude deletion of the third whereas. Therefore, Conceptual Amendment 2, as amended, would only delete lines 8-13 on page 1.

REPRESENTATIVE SEATON accepted the friendly amendment to Conceptual Amendment 2.

CO-CHAIR NEUMAN objected to Conceptual Amendment 2, as amended.

CO-CHAIR JOHNSON removed his objection to the amendment.

CO-CHAIR NEUMAN reiterated his objection the amendment.

CO-CHAIR NEUMAN, in response to Representative P. Wilson, confirmed that the friendly amendment to Conceptual Amendment 2 had passed.

[2:21:31 PM](#)

REPRESENTATIVE KAWASAKI asked whether deletion of the second and third whereas clauses on page 1 would make some of the whereas clauses on pages 2 and 3 not fit anymore, given that Senate Joint Resolution 26 is the underlying part of HJR 49.

REPRESENTATIVE SEATON replied no; he believes the other whereas clauses are talking about the U.S. Environmental Protection Agency's initiation of these processes through the Clean Air Act. The two whereas clause that would be removed by Conceptual Amendment 2, as amended, are directed at [proposed] congressional statutes and all the other whereas clauses are asking the U.S. Congress to develop responsible policy. Conceptual Amendment 2, as amended, would just take out the presumption that the proposed laws currently before Congress are not responsible policy.

[2:23:30 PM](#)

CO-CHAIR NEUMAN maintained his objection to the amendment.

A roll call vote was taken. Representatives Kawasaki, Tuck, P. Wilson, Olson, Seaton, Edgmon, Guttenberg, and Johnson voted in favor of Conceptual Amendment 2, as amended. Representative Neuman voted against it. Therefore, Conceptual Amendment 2, as amended, was adopted by a vote of 8-1.

2:25:25 PM

REPRESENTATIVE KAWASAKI, in regard to Co-Chair Neuman's earlier question about what other nations are doing, related that during a recent visit to France he learned that a goal was established in the 1960s to go to nuclear power. France now produces all of its electric base load, as well as a significant portion of the electricity of adjoining countries, by nuclear power. Some of the countries that are anti-nuclear are using the nuclear electricity produced by France. He also visited Poland, a cold weather country that reminded him of Fairbanks, and learned that 80 percent of Poland's electric base load is from coal. While Poland was worried about the upcoming "Copenhagen talks," it had a lot to look forward to because of the incredible amount of air pollution due to the coal. While Poland does not support some of the European Union initiatives, it was promising for him to see that many of Poland's young political leaders and emerging leaders have adopted the idea of getting away from fossil fuels. It was interesting to see that Poland is looking toward hydropower and geothermal power, as well as other technologies that have less impact on the environment.

REPRESENTATIVE KAWASAKI added that during his recent visit to Washington, DC, with other Alaska legislators, there was no visible way to tell whether a person walking down the halls of Congress was a Democrat or a Republican. He said he does not know what section 202(a) of the Clean Air Act does and whether he wants an outright repeal of that section, and the problem is that neither does anyone else on the committee. Therefore, he thinks it is disingenuous to say that a statement needs to be made when it is unknown what statement is trying to be made. He said he thinks HJR 49 is another resolution in a line of silly resolutions that are being sent to Congress to object to something that Congress is doing. Along with having no teeth, HJR 49 fans a lot of flames with the people in his district and across the state about the things the legislature is not doing while it is in session. An hour and a half has now been spent on something that the sponsors of HJR 49 could have included in a letter to Congress.

2:30:12 PM

REPRESENTATIVE KAWASAKI said he will object to HJR 49 until he knows what it actually says. It is a waste of time to do these partisan joint resolutions, he continued, and he would prefer to be working on something like state energy policy.

CO-CHAIR JOHNSON moved to call the question.

REPRESENTATIVE KAWASAKI objected.

A roll call vote was taken. Representatives Tuck, P. Wilson, Olson, Seaton, Edgmon, Neuman, and Johnson voted in favor of calling the question. Representatives Guttenberg and Kawasaki voted against calling the question. Therefore, the motion passed by a vote of 7-2.

[2:32:30 PM](#)

CO-CHAIR JOHNSON moved to report HJR 49, as amended, out of committee with individual recommendations and zero fiscal note.

REPRESENTATIVE KAWASAKI objected.

A roll call vote was taken. Representatives P. Wilson, Olson, Seaton, Edgmon, Neuman, and Johnson voted in favor of HJR 49, as amended. Representatives Guttenberg, Kawasaki, and Tuck voted against it. Therefore, CSHJR 49(RES) was reported out of the House Resources Standing Committee by a vote of [6-3].

The committee took an at-ease from 2:33 p.m. to 2:36 p.m.

**SJR 22-FEDERAL PREEMPTION OF SALMON MANAGEMENT**

[2:36:01 PM](#)

CO-CHAIR NEUMAN announced that the second order of business is CS FOR SENATE JOINT RESOLUTION NO. 22(RES), Opposing litigation that seeks to eliminate the Kenai, Kasilof, and Chitina sockeye salmon personal use dip net fisheries. [Before the committee was HCS CSSJR 22(FSH).]

[2:36:46 PM](#)

SHARON LONG, Staff, Senator Charlie Huggins, Alaska State Legislature, paraphrased from the following written sponsor statement [original punctuation provided]:

This resolution takes aim at lawsuits filed in the US District Court of Alaska, one by the United Cook Inlet Drift Association (UCIDA) and other by Herbert T. Jensen. The complaints by this commercial fishing group and an individual, calling for a return of federal management, are an affront to the State of

Alaska. Please, do not forget, here in the afterglow of our yearlong celebration of 50 years of statehood, it was a colossal failure of federal salmon management that was a major driving force behind the statehood movement. Hopefully, no one wishes to return to such a regime.

UCIDA is an association of both resident and non-resident commercial fishers who participate in drift gillnet salmon fisheries in the inlet. Remarkably, they can keep, for their personal use, an unlimited number of fish from their commercial catch. Their goal is to have the state-managed personal use dip net fishery declared unconstitutional and be pre-empted by federal law. This resolution seeks a fair shake for Alaskans who fish, without commercial gear, with simple dip nets, to feed their families. It asks the governor to intervene in defense of our state's authority to manage its own fisheries in a responsible manner.

MS. LONG noted the parties are actively filing motions and briefs and last month the plaintiffs moved to go forward to oral arguments even though the U.S. Department of Commerce National Marine Fisheries Service (NMFS) has responded to petitioners that under the Magnuson-Stevens Fishery Conservation and Management Act it lacks any authority to regulate the state's personal use fishery conducted predominantly within state waters. In this regard, she called attention to page 11 of the NMFS letter contained in the committee packet. She said SJR 22 asks UCIDA to drop the lawsuit and the attorney general to intervene on the state's behalf should the lawsuit go forth.

[2:39:56 PM](#)

CO-CHAIR NEUMAN understood the two lawsuits - one by the United Cook Inlet Drift Association and one by Herbert T. Jensen - seek to eliminate the personal use dip net fishery.

MS. LONG responded yes, the plaintiffs would like for the association's non-resident members to be able to participate in Alaska's resident-only personal use fishery. The plaintiffs want the personal use fishery for Alaska's residents to be declared unconstitutional and thereby open it up.

[2:40:40 PM](#)

CO-CHAIR NEUMAN read page 2, lines 24-28, of the resolution which states that "members of the United Cook Inlet Drift Association, including all nonresidents, are allowed an unlimited bag limit". He understood from this language that UCIDA members can keep salmon for personal use that are caught during the commercial fisheries.

MS. LONG replied yes. She called the Alaska Department of Fish & Game to verify this and was told that it was accurate. In further response, she said the fish must be claimed on the fish tags, as is done by residents on their personal use tags. Additionally, for commercial fishermen in this fishery, the personal-use take is unlimited.

CO-CHAIR NEUMAN inquired whether there is a limit on the amount of salmon that a resident Alaskan can keep for personal use.

MS. LONG answered she does not know and deferred to Mr. Kane.

BRIAN KANE, Attorney, Legislative Legal Counsel, Legislative Legal and Research Services, Legislative Affairs Agency, said he would have to look through the regulations in this regard as he does not believe fishing limits are put in statute. The regulations might be different for different areas, he added.

[2:42:48 PM](#)

CO-CHAIR NEUMAN offered his belief that the limit for the Chitina River is 30 salmon per household and 15 for a single person, and that on the Kenai River the maximum is 45-50 salmon per household.

REPRESENTATIVE OLSON said he believes it is 25 salmon for the head-of-household and 10 for each additional family member, but no limit on family members.

CO-CHAIR NEUMAN summarized the discussion by noting that a commercial fisherman can take an unlimited bag amount [for personal use], while Alaskans taking salmon for personal use have a limit; both must report the amount taken.

MS. LONG nodded yes.

[2:44:23 PM](#)

CO-CHAIR NEUMAN surmised the goal of SJR 22 is to challenge the two lawsuits.

MS. LONG responded yes.

MS. LONG, in response to Representative Guttenberg, explained that the housekeeping changes made to the resolution included updating of the names of the governor and U.S. Secretary of Commerce.

[2:45:06 PM](#)

REPRESENTATIVE P. WILSON inquired why non-residents are being allowed subsistence privileges that are meant for residents.

MS. LONG replied this was the serious question that was the genesis of SJR 22. She clarified that it is a personal use fishery, not subsistence.

REPRESENTATIVE P. WILSON asked what the difference is between personal use and subsistence.

MS. LONG answered that while she cannot do a great job of describing subsistence, she knows that the first priority in the allocation of fish is for subsistence purposes and the second highest priority is the personal use fishery.

[2:46:16 PM](#)

REPRESENTATIVE P. WILSON inquired whether personal use is a guise for fishers to take more commercial catch, given that the amount for personal catch is unlimited.

MR. KANE, at the request of Co-Chair Neuman, first addressed Representative P. Wilson's earlier question about the difference between personal use and subsistence fishing. He read the following from AS 16.05.940 [original punctuation provided]:

"personal use fishing" means the taking, fishing for, or possession of finfish, shellfish, or other fishery resources, by Alaska residents for personal use and not for sale or barter, with gill or dip net, seine, fish wheel, long line, or other means defined by the Board of Fisheries;

"subsistence fishing" means the taking of, fishing for, or possession of fish, shellfish, or other fisheries resources by a resident domiciled in a rural area of the state for subsistence uses with gill net,

seine, fish wheel, long line, or other means defined by the Board of Fisheries;

[2:47:59 PM](#)

REPRESENTATIVE P. WILSON reiterated her question about why non-residents should be allowed subsistence privileges that are meant for Alaska residents.

MR. KANE responded he does not know why that is allowed.

MS. LONG said that, personally, she has not ascribed motive as to why the plaintiffs are seeking this. However, she related that the defendant's have interpreted this "as UCIDA seeking a greater allocation of salmon for its members and a lesser allocation for, among others, Alaska residents." Therefore, the defendant's interpretation was the same as the sense of Representative P. Wilson's question.

[2:49:22 PM](#)

CO-CHAIR JOHNSON said he thinks what is being talked about is priority use and the plaintiffs are asking that the commercial use be elevated to the same priority level as personal use.

REPRESENTATIVE SEATON pointed out that there is a priority usage for subsistence, but not a designation of priority use among the other uses for Alaska fisheries. Under current Alaska law, a personal use fishery is essentially like a sport fishery, but with different gear. This is not a priority situation; rather, this is asking for non-residents to be able to use personal use fisheries the same as the others. He clarified that it is not an unlimited catch available to members of the Upper Cook Inlet Drift Association because there are limited days and times for the commercial fishery; it is limited to their legal commercial catch. This legal commercial catch must be reported and the fishermen can choose whether to sell, donate, distribute, or keep that catch for their own personal use.

[2:51:40 PM](#)

CO-CHAIR NEUMAN said there is concern about this issue across Alaska.

REPRESENTATIVE TUCK added to Representative Seaton's statement by reading the following written testimony from commercial fisherman Matt Donohoe of Sitka [original punctuation provided]:

Commercial fishermen cannot keep all the fish they want. They can choose to keep some or all of their commercial catch and not sell it. They cannot keep fish when their commercial fishery is closed.

CO-CHAIR NEUMAN opened public testimony.

[2:53:09 PM](#)

ROD ARNO, Executive Director, Alaska Outdoor Council (AOC), stated that the Alaska Outdoor Council represents over 10,000 Alaskans statewide who participate in dip net fisheries and harvest wild food. He said AOC supports passage of SJR 22. The state constitution provides that Alaskan individuals are obligated to respect the rights and protections of other Alaskans. The personal use fishery was established in 1982 to provide an opportunity for non-Copper River Basin residents who had lost their priority to dip net for salmon at Chitina because the Board of Fish and the Board of Game had adopted a rural priority. He related that the AOC is currently in court trying to make sure that that dip net fishery on the Chitina is not a personal use fishery, but a subsistence use fishery, which would give it a priority to Alaska residents who choose to gather a wild food harvest. In response to Co-Chair Neuman, he added that fish caught in a personal use fishery cannot be sold commercially.

CO-CHAIR NEUMAN closed public testimony after ascertaining no one else wished to testify.

[2:56:39 PM](#)

MS. LONG, in response to Representative Tuck, stated that two lawsuits have been filed.

CO-CHAIR NEUMAN, in response to Representative Tuck, pointed out that the resolution does address the lawsuit filed by Herbert T. Jensen and this can be found on page 1, line 15.

REPRESENTATIVE SEATON posited that the lawsuit may have been entered into with the idea of restricting a dip net fishery because the dip net fishery has expanded exponentially in Cook Inlet, with hundreds of thousands of fish now being taken annually and possibly exceeding the commercial catch. The problem is the way the lawsuit is written. He referenced the language on page 1 of HCS CSSJR 22(FSH), lines 12-13,

"requesting the court to declare that the state-authorized resident-only salmon fisheries are unconstitutional" and said he thinks a court is not going to say to close down the fishery. He thinks the probable logical thing is that the state would then say the fishery cannot be restricted to residents only, which would mean that it would greatly expand the personal use fishery. For this reason, he appreciates the resolves that ask for withdrawal of the lawsuits. He said he thinks state management is much preferable to federal management and it is perfectly legitimate to have a resident-only personal use fishery. Therefore, he supports the resolution.

CO-CHAIR NEUMAN disagreed that the personal use catch is close to the commercial catch.

[3:00:15 PM](#)

REPRESENTATIVE TUCK pointed out that the State of Alaska is a party in the Jensen lawsuit. He asked whether the state is on the same or opposite side of Mr. Jensen's lawsuit.

MS. LONG responded the state is opposing Mr. Jensen's lawsuit.

REPRESENTATIVE TUCK offered his concern about hindering people's seventh amendment right to go to court. He agreed that Alaskans should have priority to the state's fisheries and said he enjoys dip netting to provide fish for his family. He encouraged the attorney general to continue fighting this on behalf of Alaskans. However, while he opposes this type of lawsuit, he asked rhetorically whether the legislature through resolutions should be telling people to drop lawsuits.

[3:03:04 PM](#)

CO-CHAIR JOHNSON moved to call the question.

REPRESENTATIVE TUCK objected and said he has an amendment he would like to offer.

CO-CHAIR JOHNSON withdrew his motion to call the question.

[3:04:10 PM](#)

REPRESENTATIVE TUCK moved Conceptual Amendment 1 to add "continue to" after the second "to" on page 3, line 27.

CO-CHAIR JOHNSON objected and said he does not want to send the message that the legislature is going to oppose all lawsuits, those particular lawsuits, or additional lawsuits once those are done.

CO-CHAIR NEUMAN pointed out that there are wildlife management lawsuits and others that he would like the state to continue opposing.

REPRESENTATIVE TUCK withdrew Conceptual Amendment 1.

[3:07:17 PM](#)

CO-CHAIR JOHNSON moved to report HCS CSSJR 22(FSH) out of committee with individual recommendations and the attached zero fiscal note. There being no objection, HCS CSSJR 22(FSH) was reported from the House Resources Standing Committee.

The meeting was recessed at 3:08 p.m. to a call of the chair.

[6:07:18 PM](#)

CO-CHAIR NEUMAN called the meeting back to order at 6:07 p.m. Present at the call back to order were Representatives Edgmon, Guttenberg, Tuck, Johnson, and Neuman.

### **HB 306-STATE ENERGY POLICY**

[6:08:45 PM](#)

CO-CHAIR NEUMAN announced that the last order of business is HOUSE BILL NO. 306, "An Act declaring a state energy policy." [Before the committee was CSHB 306(ENE).]

[6:09:27 PM](#)

REPRESENTATIVE CHARISSE MILLETT, Alaska State Legislature, explained that during the House Special Committee on Energy's travels across the state it was brought to the committee's attention that the state of Alaska is one of the very few states that does not have policy for energy in statute. Not only is Alaska energy anemic, it is deficient in its energy needs as far as a policy statement. A comprehensive energy policy in statute would serve as a first blueprint for future generations for energy legislation and would be the first step in codifying what the goals are for the state of Alaska.

[6:10:52 PM](#)

REPRESENTATIVE EDGMON added that everywhere the committee travelled it was heard that an energy policy was a top priority for local communities, organizations, and other entities. The committee also discovered that a number of regions are putting together energy plans without the benefit of an overarching statewide energy policy. The bill is the product of The House Energy Stakeholders Group, he pointed out. Since the 1970s, energy policies have come and gone in the state, with most of these policies focused on electricity. Now, with the convergence of a number of energy-related concerns, he thinks the state has the political will and determination statewide to come forth with an overarching policy to be put into statute for use as a roadmap going forward.

[6:12:38 PM](#)

CO-CHAIR NEUMAN, in response to Representative Millett, said he would like to postpone the actual presentation of the bill to a another time when the full committee is present.

[6:15:16 PM](#)

REPRESENTATIVE MILLETT noted that the House Majority Caucus has taken on this bill and its Senate companion bill as a priority. Unique about this bill is that it was not written by her or Representative Edgmon; it was written by stakeholders from throughout the state. These stakeholders, experts on every aspect of energy development in the state, participated in approximately 9 meetings. The bill represents much cooperation and give and take from all sectors of the energy realm. Thus, while she and Representative Edgmon are carrying the legislation, it is truly a bill from the citizens.

REPRESENTATIVE GUTTENBERG thanked Representatives Millett and Edgmon for the bill and noted that it is a long-time coming and will be the foundation for many things to come for many years.

[6:17:43 PM](#)

REPRESENTATIVE EDGMON said this policy wraps its arms around the fact that Alaska is a resource development state. He provided an overview of the bill: page 1 states the legislative intent; page 2 provides the declaration of state energy policy which recognizes that everything the state does economically is built around having affordable energy; and page 3 talks about training

and education programs, applied energy research, establishment of an oversight agency, and collaboration with federal agencies. He said he and Representative Millett are proud of the work product that has come out of the stakeholders group.

[6:20:14 PM](#)

REPRESENTATIVE EDGMON, in response to Co-Chair Neuman, noted that the stakeholders will be providing specifics of the bill to the committee members.

CO-CHAIR JOHNSON stated that moving HB 306 is important to him personally.

[6:22:05 PM](#)

REPRESENTATIVE GUTTENBERG allowed that the concept of energy codes [page 2, line 13] is a hot-button issue. However, he continued, it is important to note that the specifics of energy codes are left out of the bill; therefore it could be state, federal, or lending agency energy codes. The bill's broad nature is what he likes.

REPRESENTATIVE MILLETT pointed out that building codes for Alaska will look much different than those for New York City. It is much better for people in Alaska to be the writers of those energy codes and for Alaska to take the lead in this rather than the federal government.

[6:23:49 PM](#)

CO-CHAIR NEUMAN held over HB 306.

The committee took an at-ease from 6:23 p.m. to 6:24 p.m.

[6:26:03 PM](#)

#### **ADJOURNMENT**

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 6:26 p.m.