

**HB**

**194**

HFIN

FILE



# FISCAL NOTE

**STATE OF ALASKA**  
**2001 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Versio:.. HB194  
 (1) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): 4/10/01 11:13 AM Dept. Affected: Fish and Game  
 Title: Fees for commercial fishing licenses and BRU: Comm Fish (Limited) Entry Comm  
permits Component: Comm Fish (Limited) Entry Comm  
 Sponsor: Representative Stevens  
 Requester: House Finance Component Number: 471

**Expenditures/Revenues** (Thousands of Dollars)

Notes: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>	<b>(120.0)</b>	<b>*</b>	<b>*</b>	<b>*</b>	<b>*</b>	<b>*</b>
-------------------------------	----------------	----------	----------	----------	----------	----------

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

See attachment for explanation. Enactment of this bill could reduce future state liabilities for payments of refunds and interest to non-resident fishermen for fees paid in fiscal year FY2002 and beyond depending upon final outcome of Carlson v. State lawsuit.

Prepared by: Roger Kolden Phone 790-6950  
 Division: Commercial Fisheries Entry Commission Date/Time 4/10/01 11:13 AM  
 Approved by: Mary McDowell Date 04/10/2001  
 Agency: Commercial Fisheries Entry Commission

For distribution information, call the Governor's Legislative Office

# FISCAL NOTE

**STATE OF ALASKA**  
**2001 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: CSHB194 (FIN)  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Fish and Game  
 Title: Fees for commercial fishing licenses and permits BRU: Administration  
 Component: Administration  
 Sponsor: Representative Stevens  
 Requester: House Finance Committee Component Number: 479

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**CAPITAL EXPENDITURES**

<b>CHANGE IN REVENUES (1024)</b>	<b>227.6</b>	<b>649.3</b>	<b>649.3</b>	<b>649.3</b>	<b>649.3</b>	<b>649.3</b>
----------------------------------	--------------	--------------	--------------	--------------	--------------	--------------

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other 1024 Fish & Game Fund						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

Assumptions:

The number of licenses sold annually will remain constant.  
 The non-resident fee differential is estimated at \$135, raising the price of the non-resident license from \$125 to \$195.  
 The Fishermen's Fund contribution would be capped at \$50 per license holder per year. Fishermen's fund contributions would remain stable.

Prepared by: Kevin Brooks Phone 465-5999  
 Division: Administration Date/Time 4/17/01 10:00 a.m.  
 Approved by: Gordy Williams for Commissioner Frank Rue Date 04/17/2001  
 Agency: Department of Fish and Game

For distribution information, call the Governor's Legislative Office

## HB 194 Fiscal Note - Estimates of Potential Fiscal Impacts\*

- If HB194 is enacted (with resident fees capped at \$300), CFEC's fee-generated revenues could drop by approximately \$500.0 per licensing year, beginning with licenses for 2002, which the Commission will begin issuing in the late fall of 2001.

A Supreme Court ruling in *Carlson v. State* is expected in the summer of 2002, making a final determination of an allowable method for calculating the maximum nonresident fee differential. That method would then determine the fiscal impacts of the provisions of HB 194 in future years.

If the state prevails in its arguments to the Supreme Court regarding what state expenditures may be included in the formula, the provisions of HB 194 will generate *more* revenue from nonresident fees than the provisions of existing statute would generate.

- If HB 194 is NOT enacted, and the state continues charging fees under its current fee structure, potentially large additional liabilities will continue to accrue to the state under the Carlson lawsuit. Under the Superior Court decision, the state is continuing to accrue new, additional refund and interest costs of approximately \$1.13 million per year. If the state wins on any of the issues it is appealing to the Supreme Court, that annual figure could be reduced, and if the plaintiffs win of the issues they appeal, the additional liability that accrues to the state each year could be larger than that figure.
- If the state were to come into compliance with the Superior Court decision *without* changing the statute (that is, charge fees in accordance with both the existing statutory language, including the mandate that nonresident fees shall be three times the resident fees, *and* with the court's formula for calculating the maximum dollar amount by which nonresident fees may exceed resident fees), CFEC's fee-generated revenues would decline by more than \$3 million per year.

### \*Assumptions Used in Making Calculations:

1. Numbers of permits distributed among five fee classes will be the same as in 2000 (the most recent licensing year figures available). Note that distribution of permits among fee classes varies considerably from year to year, so calculations made for one year based on fee class distribution in another year will necessarily be very rough estimates.
2. Continued use of five fee classes, with resident/base fees being increased by 20% in each class (HB194 caps resident/base fees at \$300, a 20% increase over current cap of \$250, so assume all classes increase in same proportion)
3. Estimate allowable nonresident permit differential for 2002 at \$111, which is average of allowable differentials over the most recent four years under provisions of Superior Court ruling in *Carlson* class action lawsuit (calculated by OMB).

**NOTE:** Revenues generated from permit fees have been in decline since 1994 due to fewer permits being renewed and some fisheries moving into lower fee classes due to declines in economic returns. Permit fees generated about \$4.3 million in 1997, \$4.1 million in 1998, \$4 million in 1999, and \$3.8 million in 2000. Assuming continuation of that trend, 2002 revenues will likely decline further even under existing statute and use of the 3-to-1 fee differential.

*adopted*

AMENDMENT

*#1*  
Rep. Nareis

OFFERED IN THE HOUSE

TO: HB 194

*CSHB194(FIN)*

1 Page 4, following line 15:

2 Insert a new bill section to read:

3 \*\* Sec. 6. AS 23.35.060(a) is amended to read:

4 (a) There is created a fund, designated as the "fishermen's fund." The  
5 Department of Revenue is the custodian of the fund, and the Department of Labor and  
6 Workforce Development shall administer it. The fund shall be composed of

7 (1) 39 percent of the money derived by the state from all commercial  
8 fishermen's licenses, not to exceed a maximum of \$50 for each license holder for  
9 each year; and

10 (2) money appropriated to carry out the purpose of this chapter."

11

12 Renumber the following bill sections accordingly.

13

14 Page 4, line 17:

15 Delete "Sections 2 - 5"

16 Insert "Sections 2 - 6"

17

18 Page 4, line 18:

19 Delete "and 6"

20 Insert "and 7"

22-LS0441\B  
Utermohle  
4/17/01

12/1 adopted  
II 2 pg 4 line 9  
pg 2 line 13

adopted 4/17/01

**CS FOR HOUSE BILL NO. 194(FIN)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-SECOND LEGISLATURE - FIRST SESSION**

**BY THE HOUSE FINANCE COMMITTEE**

**Offered:  
Referred:**

**Sponsor(s): REPRESENTATIVES STEVENS, Scalzi, Wilson, Hudson, Harris, Lancaster, Kerttula, Moses**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to fees for commercial fishing licenses and permits; and providing for  
2 an effective date."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 \* **Section 1.** AS 16.05.480(a) is repealed and reenacted to read:

5 (a) A person engaged in commercial fishing shall obtain a commercial fishing  
6 license and shall retain the license in possession and readily available for inspection  
7 during fishing operations. An entry permit or interim-use permit entitles the holder to  
8 participate as a gear operator in the fishery for which the permit is issued and to  
9 participate as a crewmember in any fishery. A crewmember fishing license is not  
10 transferable and entitles the holder to participate as a crewmember in any fishery.

11 \* **Sec. 2.** AS 16.05.480 is amended by adding new subsections to read:

12 (g) For a crewmember fishing license issued for calendar year 2002 and  
13 following years, a resident engaged in commercial fishing who is 11 years of age or  
14 older and who does not hold an entry permit or an interim-use permit shall pay an

1 annual fee of \$60. For a crewmember fishing license issued for calendar year 2002  
2 and following years, a resident engaged in commercial fishing who is less than 11  
3 years of age and who does not hold an entry permit or an interim-use permit shall pay  
4 an annual fee of \$5.

5 (h) For a crewmember fishing license issued for calendar year 2002 and  
6 following years, a nonresident engaged in commercial fishing who is 11 years of age  
7 or older and who does not hold an entry permit or an interim-use permit shall pay an  
8 annual base fee of \$60 plus an amount, established by the department by regulation,  
9 that does not exceed the maximum allowed by law. For a crewmember fishing license  
10 issued for calendar year 2002 and following years, a nonresident engaged in  
11 commercial fishing who is less than 11 years of age and who does not hold an entry  
12 permit or an interim-use permit shall pay an annual base fee of \$5 plus an amount,  
13 established by the department by regulation, ~~that~~ that [does not exceed] the maximum  
14 allowed by law.

15 (i) In this section, "commercial fishing license" includes an entry permit and  
16 an interim-use permit issued under AS 16.43 and a crewmember fishing license.

17 \* Sec. 3. AS 16.43.100(a) is amended to read:

- 18 (a) To accomplish the purposes set out in AS 16.43.010, the commission shall
- 19 (1) regulate entry into the commercial fisheries for all fishery resources  
20 in the state;
- 21 (2) establish priorities for the application of the provisions of this  
22 chapter to the various commercial fisheries of the state;
- 23 (3) establish administrative areas suitable for regulating and  
24 controlling entry into the commercial fisheries;
- 25 (4) establish, for all types of gear, the maximum number of entry  
26 permits for each administrative area;
- 27 (5) designate, when necessary to accomplish the purposes of this  
28 chapter, particular species for which separate interim-use permits or entry permits will  
29 be issued;
- 30 (6) establish qualifications for the issuance of entry permits;
- 31 (7) issue entry permits to qualified applicants;

1 (8) issue interim-use permits as provided in AS 16.43.210, 16.43.220,  
2 and 16.43.225;

3 (9) establish, for all types of gear, the optimum number of entry  
4 permits for each administrative area;

5 (10) administer the buy-back program provided for in AS 16.43.310  
6 and 16.43.320 to reduce the number of outstanding entry permits to the optimum  
7 number of entry permits;

8 (11) provide for the transfer and reissuance of entry permits to  
9 qualified transferees;

10 (12) provide for the transfer and reissuance of entry permits for  
11 alternative types of legal gear, in a manner consistent with the purposes of this  
12 chapter;

13 (13) establish and administer the collection of the annual fees  
14 provided for in AS 16.43.160;

15 (14) administer the issuance of commercial fishing vessel licenses  
16 under AS 16.05.490;

17 (15) issue educational entry permits to applicants who qualify under  
18 the provisions of AS 16.43.340 - 16.43.390;

19 (16) establish reasonable user fees for services;

20 (17) issue landing permits under AS 16.05.675 and regulations adopted  
21 under that section;

22 (18) establish and collect annual fees for the issuance of landing  
23 permits that reasonably reflect the costs incurred in the administration and  
24 enforcement of provisions of law related to landing permits; and

25 (19) establish a moratorium on entry into commercial fisheries as  
26 provided in AS 16.43.225.

27 \* Sec. 4. AS 16.43.160(a) is amended to read:

28 (a) The commission shall establish annual fees for the issuance and annual  
29 renewal of entry permits or interim-use permits. [THE AMOUNT PAID BY A  
30 PERMIT HOLDER UNDER THE PROVISIONS OF AS 16.05.480 SHALL BE  
31 CREDITED BY THE COMMISSION TOWARD PAYMENT OF THE FEE

1 CHARGED UNDER THIS SECTION. NO MORE THAN ONE CREDIT MAY BE  
2 OBTAINED ANNUALLY BY A PERSON.]

3 \* Sec. 5. AS 16.43.160 is amended by adding new subsections to read:

4 (e) For an entry permit or an interim-use permit issued for calendar year 2002  
5 and following years, the annual base fee may not be less than \$10 or more than \$300.  
6 The annual base fee must reasonably reflect the different rates of economic return for  
7 different fisheries. The fee for a nonresident entry permit or a nonresident interim-use  
8 permit shall be higher than the annual base fee by an amount, established by the  
9 commission by regulation, that is as close as is practicable to ~~does not exceed~~ the maximum allowed by law. The  
10 amount of the fee for a nonresident entry permit or a nonresident interim-use permit  
11 may reflect

12 (1) the costs incurred by the state that are directly attributable to  
13 participation of nonresidents in the commercial fisheries of the state;

14 (2) the costs incurred by the state for

15 (A) direct operating expenditures for ongoing management,  
16 support, and regulation of the commercial fishing industry, including relevant  
17 expenditures of the

18 (i) Office of the Governor - Alaska coastal management  
19 program;

20 (ii) Department of Environmental Conservation - air  
21 and water quality permitting activities and seafood inspection activities;

22 (iii) Department of Community and Economic  
23 Development - commercial fishing loan program, Alaska Seafood  
24 Marketing Institute, and community development quota program;

25 (iv) Department of Fish and Game - division of  
26 commercial fisheries, division of habitat and restoration, board support  
27 section, division of administrative services, division of sport fish,  
28 commissioner's office, and Alaska Commercial Fisheries Entry  
29 Commission;

30 (v) Department of Labor - wage and hour enforcement,  
31 mechanical inspections, occupational safety and health activities, and

- 1 fishermen's fund;
- 2 (vi) Department of Law;
- 3 (vii) Department of Natural Resources;
- 4 (viii) Department of Public Safety - commercial
- 5 fisheries enforcement;
- 6 (ix) Department of Revenue - fisheries business tax
- 7 program, fishery resource landing tax program, salmon enhancement
- 8 tax program, salmon marketing tax program, and dive fishery
- 9 management assessment program;
- 10 (x) University of Alaska - Fisheries Industrial
- 11 Technology Center, Institute of Marine Science, Marine Advisory
- 12 Program, Sea Grant College Program, and School of Fisheries and
- 13 Ocean Sciences;
- 14 (xi) Legislature;
- 15 (xii) Alaska Court System;
- 16 (B) indirect operating expenditures for general overhead
- 17 attributable to supporting the commercial fishing industry, including
- 18 expenditures for general overhead attributable to components of agencies that
- 19 have direct operating expenditures identified under (A) of this paragraph and to
- 20 components of agencies for which direct operating expenditures related to the
- 21 ongoing management, support, and regulation of the commercial fishing
- 22 industry cannot be readily determined;
- 23 (C) general government expenditures for government services
- 24 that are used by a portion of the population attributable to the presence of the
- 25 commercial fishing industry, including government services provided by the
- 26 Department of Administration, Department of Corrections, Department of
- 27 Education and Early Development, Department of Health and Social Services,
- 28 Department of Military and Veterans' Affairs, and Department of
- 29 Transportation and Public Facilities;
- 30 (D) capital expenditures to support the commercial fishing
- 31 industry as measured by annual depreciation of public facilities and

1 infrastructure; and

2 (E) expenditures to subsidize the construction and operation of  
3 salmon hatcheries; and

4 (3) the amount of revenue foregone by the state due to the current  
5 management system for commercial fisheries in the state.

6 (f) For an entry permit or an interim-use permit issued for calendar year 2002  
7 and following years, the holder of a permit whose household income, assets, and  
8 financial resources fall within the eligibility standards for the food stamp program  
9 under 7 U.S.C. 2001 - 2025, as amended, is subject to a maximum annual fee that is  
10 equal to 50 percent of the fee that the permit holder would otherwise pay under (e) of  
11 this section.

12 \* Sec. 6. AS 16.05.480(f); AS 16.43.160(b), and 16.43.160(c) are repealed.

13 \* Sec. 7. Sections 2 - 5 of this Act take effect immediately under AS 01.10.070(c).

14 \* Sec. 8. Sections 1 and 6 of this Act take effect January 1, 2002.

22-LS0441\P  
Utermohle  
4/6/01

**CS FOR HOUSE BILL NO. 194(FIN)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:  
Referred:

Sponsor(s): REPRESENTATIVES STEVENS, Scal., Wilson, Hudson, Harris, Lancaster, Kerttula

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to fees for commercial fishing entry permits and interim-use permits;  
2 and providing for an effective date."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 \* **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section  
5 to read:

6 **FINDINGS.** The legislature finds that

7 (1) participants in the commercial fishing industry should equally contribute  
8 toward the direct and indirect costs incurred by the state for the management, support, and  
9 regulation of commercial fisheries;

10 (2) resident commercial fishermen have traditionally contributed more toward  
11 the costs of the commercial fishing industry than have nonresident commercial fishermen  
12 through the payment of state and local taxes and fees and through the expenditure of state  
13 revenue derived from the development of state natural resources, particularly oil and gas, that  
14 are equivalent to taxes that only residents pay;

1 (3) under the federal and state constitutions, the state may charge higher  
2 permit fees for nonresidents to participate in commercial fishing in order to equitably  
3 distribute responsibility for paying the costs of the commercial fishing industry;

4 (4) since 1982, the state has sought to equitably distribute the burden for the  
5 support of the commercial fishing industry between residents and nonresidents by imposing a  
6 nonresident fee differential on the cost of commercial fishing entry permit and interim-use  
7 permit fees under the Alaska commercial fisheries entry program;

8 (5) as the result of litigation challenging the validity of the nonresident fee  
9 differential for commercial fishing entry permit and interim-use permit fees, it is necessary to  
10 clarify what costs to the state are to be reflected in the amount of the nonresident fee  
11 differential that is charged to nonresident commercial fishermen:

12 (6) the state seeks only to recover that amount that may be legally collected  
13 from nonresident commercial fishermen under the federal and state constitutions to  
14 compensate the state for the direct and indirect costs attributable to the commercial fishing  
15 industry and to equitably distribute the burden of these costs between resident and nonresident  
16 fishermen.

17 \* Sec. 2. AS 16.43.160(b) is amended to read:

18 (b) Annual fees established under this section shall be no less than \$10 and no  
19 more than \$750 and shall reasonably reflect the different rates of economic return for  
20 different fisheries. The amount of an annual fee for a nonresident may not exceed  
21 [SHALL BE] three times the amount of the annual fee for a resident and must reflect

22 (1) the costs incurred by the state that are directly attributable to  
23 participation of nonresidents in the commercial fisheries of the state;

24 (2) the costs incurred by the state for

25 (A) direct operating expenditures for ongoing management,  
26 support, and regulation of the commercial fishing industry, including  
27 relevant expenditures of the

28 (i) Office of the Governor - Alaska coastal  
29 management program;

30 (ii) Department of Environmental Conservation - air  
31 and water quality permitting activities and seafood inspection

1 activities;

2 (iii) Department of Community and Economic  
3 Development - commercial fishing loan program, Alaska Seafood  
4 Marketing Institute, and community development quota program;

5 (iv) Department of Fish and Game - division of  
6 commercial fisheries, division of habitat and restoration, board  
7 support section, division of administrative services, division of  
8 sport fish, commissioner's office, and Alaska Commercial Fisheries  
9 Entry Commission;

10 (v) Department of Labor - wage and hour  
11 enforcement, mechanical inspections, occupational safety and  
12 health activities, and fishermen's fund;

13 (vi) Department of Law;

14 (vii) Department of Natural Resources;

15 (viii) Department of Public Safety - commercial  
16 fisheries enforcement;

17 (ix) Department of Revenue - fisheries business tax  
18 program, fishery resource landing tax program, salmon  
19 enhancement tax program, salmon marketing tax program, and  
20 dive fishery management assessment program;

21 (x) University of Alaska - Fisheries Industrial  
22 Technology Center, Institute of Marine Science, Marine Advisory  
23 Program, Sea Grant College Program, and School of Fisheries and  
24 Ocean Sciences;

25 (xi) Legislature;

26 (xii) Alaska Court System;

27 (B) indirect operating expenditures for general overhead  
28 attributable to supporting the commercial fishing industry, including  
29 expenditures for general overhead attributable to components of agencies  
30 that have direct operating expenditures identified under (A) of this  
31 paragraph and to components of agencies for which direct operating

1 expenditures related to the ongoing management, support, and regulation  
2 of the commercial fishing industry cannot be readily determined;

3 (C) general government expenditures for government  
4 services that are used by a portion of the population attributable to the  
5 presence of the commercial fishing industry, including government  
6 services provided by the Department of Administration, Department of  
7 Corrections, Department of Education and Early Development,  
8 Department of Health and Social Services, Department of Military and  
9 Veterans' Affairs and Department of Transportation and Public  
10 Facilities;

11 (D) capital expenditures to support the commercial fishing  
12 industry as measured by annual depreciation of public facilities and  
13 infrastructure; and

14 (E) expenditures to subsidize the construction and  
15 operation of salmon hatcheries; and

16 (3) the amount of revenue foregone by the state due to the current  
17 management system for commercial fisheries in the state.

18 \* Sec. 3. This Act takes effect immediately under AS 01.10.070(c).

# FISCAL NOTE

**STATE OF ALASKA**  
**2001 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: HB194  
 (H) Publish Date: 3/27/01

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Fish and Game  
 Title: Fees for commercial fishing licenses and BRU: Comm Fish (Limited) Entry Comm  
permits Component: Comm Fish (Limited) Entry Comm  
 Sponsor: Representative Stevens  
 Requestor: House Fisheries Component Number: 471

**Expenditures/Revenues (Thousands of Dollars)**

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>	<b>(470.0)</b>	<b>*</b>	<b>*</b>	<b>*</b>	<b>*</b>	<b>*</b>
-------------------------------	----------------	----------	----------	----------	----------	----------

**FUND SOURCE (Thousands of Dollars)**

FUND SOURCE	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

See attachment for explanation. Enactment of this bill could reduce future state liabilities for payments of refunds and interest to non-resident fishermen for fees paid in fiscal year FY2002 and beyond depending upon final outcome of Carlson v. State lawsuit.

Prepared by: Roger Kolden Phone 790-8950  
 Division: Commercial Fisheries Entry Commission Date/Time 3/23/01 4:11 PM  
 Approved by: Mary McDowell Date 03/23/2001  
 Agency: Commercial Fisheries Entry Commission

For distribution information, call the Governor's Legislative Office

## HB 194 Fiscal Note - Estimates of Potential Fiscal Impacts\*

- If HB194 is enacted (with resident fees capped at \$300), CFEC's fee-generated revenues could drop by approximately \$500.0 per licensing year, beginning with licenses for 2002, which the Commission will begin issuing in the late fall of 2001.

A Supreme Court ruling in *Carlson v. State* is expected in the summer of 2002, making a final determination of an allowable method for calculating the maximum nonresident fee differential. That method would then determine the fiscal impacts of the provisions of HB 194 in future years.

If the state prevails in its arguments to the Supreme Court regarding what state expenditures may be included in the formula, the provisions of HB 194 will generate *more* revenue from nonresident fees than the provisions of existing statute would generate.

- If HB 194 is NOT enacted, and the state continues charging fees under its current fee structure, potentially large additional liabilities will continue to accrue to the state under the Carlson lawsuit. Under the Superior Court decision, the state is continuing to accrue new, additional refund and interest costs of approximately \$1.13 million per year. If the state wins on any of the issues it is appealing to the Supreme Court, that annual figure could be reduced, and if the plaintiffs win of the issues they appeal, the additional liability that accrues to the state each year could be larger than that figure.
- If the state were to come into compliance with the Superior Court decision *without* changing the statute (that is, charge fees in accordance with both the existing statutory language, including the mandate that nonresident fees shall be three times the resident fees, *and* with the court's formula for calculating the maximum dollar amount by which nonresident fees may exceed resident fees), CFEC's fee-generated revenues would decline by more than \$3 million per year.

### \*Assumptions Used in Making Calculations:

1. Numbers of permits distributed among five fee classes will be the same as in 2000 (the most recent licensing year figures available). Note that distribution of permits among fee classes varies considerably from year to year, so calculations made for one year based on fee class distribution in another year will necessarily be very rough estimates.
2. Continued use of five fee classes, with resident/base fees being increased by 20% in each class (HB194 caps resident/base fees at \$300, a 20% increase over current cap of \$250, so assume all classes increase in same proportion)
3. Estimate allowable nonresident permit differential for 2002 at \$111, which is average of allowable differentials over the most recent four years under provisions of Superior Court ruling in *Carlson* class action lawsuit (calculated by OMB).

**NOTE:** Revenues generated from permit fees have been in decline since 1994 due to fewer permits being renewed and some fisheries moving into lower fee classes due to declines in economic returns. Permit fees generated about \$4.3 million in 1997, \$4.1 million in 1998, \$4 million in 1999, and \$3.8 million in 2000. Assuming continuation of that trend, 2002 revenues will likely decline further even under existing statute and use of the 3-to-1 fee differential.



# UNITED FISHERMEN OF ALASKA

April 11, 2001

211 Fourth Street, Suite 110  
Juneau, Alaska 99801-1143  
(907) 586-2820  
(907) 463-2545 Fax  
E-Mail: [ufa@ufa-fish.org](mailto:ufa@ufa-fish.org)  
[www.ufa-fish.org](http://www.ufa-fish.org)

Representative Bill Williams, Chairman  
House Finance Committee  
Alaska State Legislature

Dear Mr. Chairman and Members of the House Finance Committee:

United Fishermen of Alaska (UFA) is comprised of 25 Alaskan groups representing over 10,000 commercial fishermen and crew members. At our spring board meeting, the board voted to raise the resident high end cap fee from \$250 to \$300. We support this position to encourage the passage of House Bill 194, to protect against increased future liability for the state, and to allow the Commercial Fisheries Entry Commission the greatest latitude under the court's ruling to charge non-resident fishermen the highest fee possible.

UFA strongly believes that the state has identified every conceivable category related to the operation of commercial fisheries in Alaska in its arguments before the court. We continue to support their effort to argue the remaining categories before the court.

HB 194 is a responsible measure and reduces the state's liability. It does not compromise the state's case and it prevents the accrual of further debt. In addition, it may even increase revenues for CFEC. We respectfully encourage you to support and move HB 194 from your committee.

Sincerely,

Jerry McCune  
Government Relations

#### MEMBER ORGANIZATIONS

Alaska Longline Fishermen's Association • Alaska Trollers Association • At-sea Processors Association • Concerned Area "M" Fishermen  
Cook Inlet Aquaculture Association • Copper River Salmon Producers Association • Cordova District Fishermen United  
Kenai Peninsula Fishermen's Association • Kodiak Regional Aquaculture Association • Kodiak Seiners Association • North Pacific Fisheries Association  
Northern Southeast Regional Aquaculture Association • Northwest Setnetters Association • Old Harbor Fishermans Association • Petersburg Vessel Owners Association  
Prince William Sound Aquaculture Corporation • Pura Seine Vessel Owners Association • Seafood Producers Cooperative  
Southeast Alaska Seiners Association • Southern Southeast Regional Aquaculture Association  
United Cook Inlet Drift Association • United Salmon Association • United Southeast Alaska Gillnetters

## HB 194, "Commercial Fishing Permit and Crewmember Fees"

*Prepared by CFEC*

	Current Annual Fee	Annual Fee Under Proposed Legislation HB 194
<b>Resident Permit</b>	Range from no less than \$10 to not more than \$250 & reasonably reflect different rates of economic return for different fisheries. (Currently, by regulation, five fee classes of \$50, 100, 150, 200, and 250)	Range from no less than \$10 to not more than \$300 & reasonably reflect different rates of economic return for different fisheries. (Actual fees for each fee class would be adopted by regulation) [Sec.5]
<b>Non-resident Permit</b>	3 times the fees established for residents  (Currently, by regulation, five fee classes of \$150, 300, 450, 600, and 750)	Resident fee plus an amount no higher than differential allowable by law. (Non-resident "surcharge" would be adjusted periodically to reflect changes in variables in whatever formula the Supreme Court ultimately rules may be used to calculate allowable additional charge to nonresidents.) [Sec.5]
<b>Resident Adult Crewmember License</b>	\$60	\$60 [Sec.2]
<b>Non-resident Adult Crewmember License</b>	\$125	\$60 <u>plus</u> up to amount of allowable differential. (So ADF&G could opt to leave fee at \$125 as long as allowable differential is more than \$65.) [Sec. 2]
<b>Resident Child Crewmember License</b>	\$5 (As of new provision passed in 2000)	\$5 [Sec.2]
<b>Non-resident Child Crewmember License</b>	\$5 (As of new provision passed in 1999)	\$5 <u>plus</u> up to allowable differential [Sec.2]
<b>Resident "Poverty" Permit Fee</b>	\$15 (For all permit fee classes)	50% of regular resident fee. (Thus, \$25 for permits for which regular fee is \$50; \$50 for permits in \$100 fee class; etc.) Note: Nearly 80% of the poverty fees paid in 2000 were for resident permits in the lowest fee class. Those would increase by only \$10 under proposed change. [Sec.5]
<b>Non-resident Poverty Permit</b>	\$45	Up to 50% of full nonresident fee (base fee plus differential) [Sec.5]

## Sectional Analysis of HB 194

Prepared by CFEC

### Section 1. (CLARIFIES provisions in this section of current law and removes crewmember fees to be addressed elsewhere – see section 2.)

Current 16.05.480(a), which would be replaced by section 1 of this bill, reads:

- (a) A person engaged in commercial fishing shall obtain a commercial fishing license. Except as provided in (f) of this section, the fee for the license is \$60 for residents and \$125 for nonresidents. Except for those that are also entry or interim-use permits, all commercial fishing licenses are nontransferable. The commercial fishing license shall be retained in the possession of the licensee, readily accessible for inspection at all times. No more than one fee may be charged annually against a person. For the purposes of this section, "commercial fishing license" includes entry permits and interim-use permits issued under AS 16.43 and crewmember fishing licenses.

Revisions made in section 1:

- Remove the fees for crewmembers from this section of law (see section 2 for new location)
- Clarifies what each of the three types of "commercial fishing licenses" entitle the holder to do (entry permit, interim-use permit, and crewmember license – see definition section p.2, line 15 of bill)
- States that crewmember licenses are nontransferable while removing incorrect implication that all entry and interim-use permits are transferable (as some limited entry permits and all interim-use permits are also nontransferable).
- Makes clear that person must hold a permit for each particular fishery in which they participate as a gear operator. (Current provision about paying only one fee is confusing as it was intended to refer only to crewmember licenses.)

### Section 2. Adds subsections to 16.05.480 ESTABLISHING FEES FOR CREWMEMBER LICENSES for 2002 and following years.

(g) For residents:

- Over 11 years of age: \$60
- Under 11 years of age: \$5

(h) For nonresidents:

- Over 11 years of age: \$60 plus an additional amount that does not exceed the maximum allowed by law (that is, an amount calculated using formula determined to be constitutionally acceptable by court ruling in Carlson case.)

Under 11 years of age: \$5 plus added amount which does not exceed maximum allowed by law.

Section 3. "Housekeeping" language – simply adds two words, "establish and," to #13 on statutory list of things CFEC is authorized to do.

Section 4. "Housekeeping" change -- just deletes an obsolete and confusing provision in current law.

Section 5. – PRIMARY PROVISION OF THE BILL ADDRESSING CARLSON CASE ISSUE: Removes the currently required 3-to-1 differential and establishes annual FEES FOR ENTRY AND INTERIM-USE PERMITS for 2002 and following years.

(e) Resident permit fees shall be no less than \$10 and no more than \$300, and reasonably reflect different rates of economic return for different fisheries.

Nonresident permit fees shall be the resident fee plus an amount that does not exceed the maximum amount allowed by law (that is, an amount calculated using formula determined to be constitutionally acceptable by court ruling in Carlson case.)

(f) "Poverty Fees" shall be no more than 50% of regular fees the permit holder (whether resident or nonresident) would otherwise pay. Also sets out standards for determining eligibility for the reduced fee. .

Sections 6-8. Effective date provisions which keep current fee structure in place for permits and crewmember licenses issued for 2001 (even if purchased after passage of the bill), and making the new fees effective immediately for all permits and licenses issued for 2002 and beyond. This is to accommodate the fact that during the final months of 2001, permits and licenses will still be issued for use during the final months of 2001, while permits and licenses for 2002 will also be sold for the coming year. Keeps fees for all permits and licenses issued for a given use year consistent regardless of purchase date.

Section 6 (in combination with section 8) repeals current fees as of Jan. 1, 2002:

16.05.480(f) -- \$5 crewmember license for residents and nonresidents under 11 years of age.

16.43.160(b) -- section mandating the 3-to-1 nonresident-to-resident permit fee differential

16.43.160(c) – poverty fees

Section 7. Makes new crewmember, permit, and poverty fees and most of "housekeeping" provisions in bill effective immediately.

Section 8. Makes repealers in section 6, and the revisions made in section 1, effective on Jan.1, 2002.

# *Alaska State Legislature*

**SESSION ADDRESS:**  
Alaska State Capitol  
Juneau, Alaska 99801-1182  
(907) 465-4925  
Fax: (907) 465-3517  
Toll Free: 1-800-821-4925



**INTERIM ADDRESS:**  
112 Mill Bay Road  
Kodiak, Alaska 99615  
(907) 486-4925  
Fax: (907) 486-5264

## **Representative Gary Stevens**

### **SPONSOR STATEMENT – HB 194**

HB 194, "An act relating to fees for commercial fishing licenses and permits", repeals current statute that requires the Commercial Fisheries Entry Commission (CFEC) to charge non-resident fishers three times the amount charged a resident fisher and replaces it with a provision that gives them the authority to charge non-resident fishers the maximum amount allowed by the court. Which in some cases, may be more than 3 to 1.

As you may be aware, in 1982 Carlson and other nonresident commercial fishers sued CFEC alleging that the resident-nonresident fee differential violates the Commerce Clause and the Privileges and Immunities Clause of the U.S. Constitution. Caselaw holds that any difference in commercial license and permit fees may only be based on the amount that residents pay for the pertinent state services through taxes that are not also paid by nonresidents. Thus, the court established a formula that is used to compute the maximum difference that the state can charge for nonresident license and permit fees.

However, in a court trial in June 2000, the superior court ruled that some, but not all, of the budget categories identified by the state may be counted when calculating the annual expenditures for commercial fisheries management. By disallowing four of the six categories, the State of Alaska is faced with a potential \$30 million liability. The State will be appealing that decision to the Supreme Court and will be arguing that the other four budget categories should be included in the formula. Meanwhile, as we continue to charge non-residents three to one, the states liability continues to grow.

By passing this piece of legislation, CFEC will discontinue the practice of charging three to one and instead will charge the maximum amount that is allowed by the court. In other words, starting in January, CFEC would calculate the fee differential based on the two budget categories that the court has allowed. However, the Department of Law is hopeful that they will prevail in their appeal and once the court makes its final ruling, CFEC will be able to include some, if not all, of the other four budget categories into the formula.