

ALASKA LEGISLATURE

2248

HOUSE and SENATE FINANCE COMMITTEE FILES, 2001 - 2002

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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	(120.0)	*	*	*	*	*
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FUND SOURCE (Thousands of Dollars)

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

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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES

CHANGE IN REVENUES (1024)	227.6	649.3	649.3	649.3	649.3	649.3
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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						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

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.

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CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	(470.0)	*	*	*	*	*
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
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1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

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
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
Resident Permit	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]
Non-resident Permit	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]
Resident Adult Crewmember License	\$60	\$60 [Sec.2]
Non-resident Adult Crewmember License	\$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]
Resident Child Crewmember License	\$5 (As of new provision passed in 2000)	\$5 [Sec.2]
Non-resident Child Crewmember License	\$5 (As of new provision passed in 1999)	\$5 <u>plus</u> up to allowable differential [Sec.2]
Resident "Poverty" Permit Fee	\$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]
Non-resident Poverty Permit	\$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

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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.

HB

194

FILE

SFINN

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT

APR 28 2001

SENATE FINANCE
COMMITTEE

DATE: 4/26/01

FURTHER:

DATE TURNED
IN TO OFFICE: 28 April 2001

Finance Committee considered **CS FOR HOUSE BILL NO. 194(FIN)**
ENTRY PERMIT FEES

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

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:

- same title
- new title

House Bill:

- same title
- technical title
- new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
FISH + GAME / CFEC	4/24/01		✓	4
FISH + GAME / Admin.	4/17/01		✓	3

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>	✓			
<i>[Signature]</i>			✓	
<i>[Signature]</i>			✓	
<i>[Signature]</i>	✓			
<i>[Signature]</i>			✓	
<i>[Signature]</i>			⊕	
<i>[Signature]</i>			✓	
COCHAIR: <i>[Signature]</i>			✓	
COCHAIR: <i>[Signature]</i>			✓	

APR 28 2001

SENATE FINANCE
COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 3
Bill Version: CSHB 194(FIN)
(H) Publish Date: 4/18/01

Revision Date/Time (Note if correction): _____ Dept. Affected: Fish and Game
Title: Fees for commercial fishing licenses and permits BRU: Administration
Sponsor: Representative Stevens Component: Administration
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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (1024)	227.6	649.3	649.3	649.3	649.3	649.3
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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						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

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 Franl Rue Date 04/17/2001
Agency: Department of Fish and Game

For distribution information, call the Governor's Legislative Office

APR 28 2001

SENATE FINANCE
COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 4
Bill Version: CSHB194(FIN)
(S) Publish Date: 4/26/01

Revision Date/Time (Note if correction): 4/24/01 1:17 PM Dept. Affected: Fish and Game
Title: Fees for commercial fishing licenses and permits BRU: Comm Fish (Limited) Entry Comm
Component: Comm Fish (Limited) Entry Comm
Sponsor: Representative Stevens
Requester: Senate Resources 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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	(120.0)	*	*	*	*	*
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FUND SOURCE (Thousands of Dollars)

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

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 4/24/01 1:17 PM
Approved by: Mary McDowell Date 04/24/2001
Agency: Commercial Fisheries Entry Commission

For distribution information, call the Governor's Legislative Office

- If HB194 is enacted (with resident fees capped at \$300), CFEC's fee-generated revenues could drop by approximately \$136.0 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 and approximately 250 new members are being added to the *Carlson* class each 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 any 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. *The estimates of renewals in 2002 are based upon weighted averages of the most recent three years of renewals for each type of permit. (2000 being the most recent year used). These estimates are necessarily rough since the number of permits renewed can change sharply from year-to-year, particularly in unlimited fisheries. The estimated distribution of permits by fee class assume that CFEC will adopt regulations establishing annual renewal fees based upon the same indicators of economic returns that are used in the current regulations.*
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 \$135, which is approximately the average of allowable differentials over the most recent ten years under provisions of Superior Court ruling in Carlson class action lawsuit (calculated by OMB).*
4. *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. Assuming continuation of that trend, 2002 revenues will likely be around \$3.3 million under existing statute and use of the 3-to-1 fee differential.*

Alaska State Legislature

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Representative Gary Stevens

SPONSOR STATEMENT – CSHB 194 (FIN)

CSHB 194 (FIN), "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 as close as is practicable to the maximum amount allowed by law. 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 \$22.5 million liability. The State has appealed that decision to the Alaska 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, we continue to add more plaintiffs to the suit and our 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 law. 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.

Sectional Analysis of CSHB194(FIN)

Prepared by CFEC - 4/24/01

Section 1. CLARIFIES provisions in this section of current law and removes crewmember fees to be addressed elsewhere in statute— 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:

Adults and children 11 years of age or older: \$60
Children under 11 years of age: \$5

(h) For nonresidents:

Adults and children 11 years of age or older: \$60 plus an additional amount that is as close as is practicable to the maximum allowed by law (that is, an amount calculated using formula determined to be constitutionally acceptable by court ruling in Carlson case.)

Children under 11 years of age: \$5 plus additional amount that is as close as is practicable to the 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 is as close as is practicable to the maximum 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. .

Section 6. -- Adds language to stabilize (by capping) annual contributions made into the Fishermen's Fund for each holder of a license or permit. This is to avoid a significant increase in payments into Fishermen's Fund for each nonresident fisher (which would cause an unnecessary drain on fee-generated revenues that would otherwise be available for appropriation), in years when the allowable nonresident fee differential may be high.

Sections 7-9. 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 7 (in combination with section 9) 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 8. Makes new crewmember, permit, and poverty fees; Fishermen's Fund provisions; and most of "housekeeping" provisions in bill effective immediately.

Section 9. Makes repealers in section 7, and the revisions made in section 1, effective on Jan.1, 2002.

STATE OF ALASKA

DEPARTMENT OF LAW
OFFICE OF THE ATTORNEY GENERAL

TONY KNOWLES, GOVERNOR

GOVERNMENTAL AFFAIRS SECTION
P.O. BOX 110300
DIAMOND COURT HOUSE, 6TH FLOOR
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PHONE: (907)465-3600
FAX: (907)465-2520

April 27, 2001 (amended)

The Honorable Pete Kelly, Co-chair
Senate Finance Committee
Alaska Senate
State Capitol, Room 518
Juneau, Alaska 99801

Re: CSHB 194(FIN): Fees for commercial fishing licenses and permits

Dear Senator Kelly:

You have asked that we review the provisions of HB 194 to provide advice whether amendments proposed to the enabling act of the Fisherman' Fund would expose that fund to a claim that the fund has lost its dedicated status. The Fisherman's Fund is a dedicated fund that existed before statehood. As a pre-existing dedication, the earmarking of license fees derived from commercial fishermen's licenses was continued by the provisions of article IX, section 7 of the Alaska Constitution. A proposed amendment set out in sec. 6 of CSHB 194(FIN) would place an annual \$50 cap per license holder on the amount of commercial fishing license fees that would be allocated to the fund each year.

We construe the continuation provision of section 7 of the Alaska Constitution as effectively freezing the dedication at pre-statehood amounts and rates. *See* 1978 Inf. Op. Att'y Gen. (June 2; J66-580-78). Until 1999, the rate of dedication was set at 60% of the money derived by the state from the sale of commercial fishing licenses. In 1999, the legislature amended AS 23.35.060 to change the rate of dedication to 39% of the amount derived from this source. The rate reduction was in approximately inverse proportion to fee increases for commercial fishing licenses. We warned at the time that a change in rate may destroy the dedication. However, the legislature followed advice of legislative counsel to the contrary. Legislative counsel rely on comments made during proceedings of the constitutional convention to the effect that changes in the rate of dedication are permitted within the continuation limitation. *See* Minutes of the Alaska Constitutional Convention at 2404-5 (January 17, 1956).

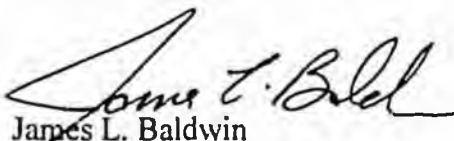
CSHB 194(FIN) would change the enabling statute for the Fishermen's Fund once again in a way intended to limit any change in the dedication through increases in commercial fishing fees. The addition of an annual \$50 cap per license holder on the amount dedicated to the fund is intended to keep the amount dedicated from fluctuating sharply if non-resident commercial fishing license fees are drastically changed by operation of a formula related to pending litigation. The cap approximates the amount paid per non-resident licensee to the

Fishermen's Fund under existing law. The cap would avoid an increase in the amount dedicated to the fund caused by events outside of the control of the legislature.

We believe that the cap approach is defensible as a means to maintain the status quo for the dedication. If the amount of the non-resident license fee is to change because of the proposed formula for calculating the allowable differential between resident and non-resident license fees, it would be prudent to divert the increase in revenues away from the fishermen's fund in the manner proposed in CSHB 194(FIN). Please keep in mind our view that a change in the rate or amount of dedication may threaten the continuity of a dedicated fund. The changes proposed to AS 23.35.060(a) in section 6 of CSHB194(FIN) are intended to alleviate that risk and are beneficial.

Sincerely,

BRUCE M. BOTELHO
ATTORNEY GENERAL

By: 
James L. Baldwin
Assistant Attorney General

BMB:JLB:jn

cc: Hon. Dave Donley, Co-chair, Senate Finance Committee
Chrystal Smith, Legislative Liaison
Deborah Behr, Legislation Attorney
Steve White, Assistant Attorney General
Department of Law
Kevin Brooks, Director, Div. of Admin. Services
Department of Fish and Game

SENATE COMMITTEE REPORT

DATE: 4/23/01

FURTHER: Finance

DATE TURNED
IN TO OFFICE: 4/25/01

Resources Committee considered CS FOR HOUSE BILL NO. 194(FIN)
ENTRY PERMIT FEES

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

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

- Senate Bill:**
 same title
 new title
House Bill:
 same title
 technical title
 new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
Fish + Game	4/24/01	✓		4

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Pearce</i>			✓	
<i>[Signature]</i>			✓	
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
CHAIR: <i>[Signature]</i>	✓			



UNITED FISHERMEN OF ALASKA

April 11, 2001

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(907) 463-2545 Fax
E-Mail: ufa@ufa-fish.org
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 • Purse 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

**ESTIMATE OF FEES FOR 2002 COMMERCIAL FISHING
PERMITS AND CREWMEMBER LICENSES
UNDER PROVISIONS OF HB194
ASSUMING \$135 NONRESIDENT DIFFERENTIAL
(CURRENT FEES IN PARENTHESES)**

		RESIDENT	NONRESIDENT
PERMITS	FEE CLASS V	60 (50)	195 (150)
	FEE CLASS IV	120 (100)	255 (300)
	FEE CLASS III	180 (150)	315 (450)
	FEE CLASS II	240 (200)	375 (600)
	FEE CLASS I	300 (250)	435 (750)
ADULT CREWMEMBER		60 (60)	195 (125)
CHILD CREWMEMBER		5 (5)	140 (5)
REDUCED FEE (POVERTY)			
PERMITS -	FEE CLASS V	30 (15)	97.50 (45)
	FEE CLASS IV	60 (15)	127.50 (45)
	FEE CLASS III	90 (15)	157.50 (45)
	FEE CLASS II	120 (15)	187.50 (45)
	FEE CLASS I	150 (15)	217.50 (45)

Prepared by CFEC
4/9/01

Comparison of Fee Structure for Commercial Fishing Permits and Crewmember Licenses Under Current Law and Under Provisions of HB194

Prepared by CFEC - 4/9/01

	Current Annual Fee	Annual Fee Under Provisions of HB194
Resident Permit	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. [Sec.5]
Non-resident Permit	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 formula the Supreme Court ultimately rules may be used to calculate allowable additional charge to nonresidents.) [Sec.5]
Resident Adult Crewmember License	\$60	\$60 [Sec.2]
Non-resident Adult Crewmember License	\$125	\$60 <u>plus</u> up to amount of allowable differential. [Sec. 2]
Resident Child Crewmember License	\$5	\$5 [Sec.2]
Non-resident Child Crewmember License	\$5	\$5 <u>plus</u> up to allowable differential [Sec.2]
Resident "Poverty" Permit Fee	\$15 (For all permit fee classes)	50% of regular resident fee. (Thus, \$30 for permits for which regular fee is \$60; \$60 for permits in \$120 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 \$15 under proposed change. [Sec.5]
Non-resident Poverty Permit	\$45	Up to 50% of full nonresident fee (base fee plus differential) [Sec.5]

HB

1988

HFIN

FILE

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSHB 198(STA)
 (H) Publish Date: 4/26/01

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title: An Act relating to a pos tirement pension BRU: Special Systems
adjustment and cost-of living allowance.... Component: EPRS
 Sponsor: Representative Hudson
 Requester: (H)State Affairs Component Number: 964

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	47.6	56.9	66.4	67.6	67.8	68.0
Miscellaneous						
TOTAL OPERATING	47.6	56.9	66.4	67.6	67.8	68.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	47.6	56.9	66.4	67.6	67.8	68.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	47.6	56.9	66.4	67.6	67.8	68.0

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 page 2 for analysis.

Prepared by: Guy Bell, Director Phone 465-4471
 Division: Retirement and Benefits Date/Time 04/25/01
 Approved by: Jim Duncan, Commissioner Date April 25, 2001
 Agency: Department of Administration

For distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: CSHB 198(STA)
 (H) Publish Date: 4/26/01

Revision Date/Time (Note if correction): 04/26/2001 Dept. Affected: Office of the Governor
 Title: "An Act relating to a post-retirement pension... and increasing the compensation of the governor". BRU: Executive Operations
 Sponsor: Representative Hudson Component: ExecutiveOffice
 Requester: House State Affairs Component Number: 6

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	0.0	0.0	0.0	0.0	0.0	0.0
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

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

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)

CS HB198 deletes the previously proposed pay raise for the governor, resulting in no fiscal impact for the Office of the Governor.

Prepared by: Michael A. Nizich, Administrative Director Phone 465-3876
 Division: Administrative Services Date/Time 4/26/01 12:00 AM
 Approved by: David Ramseur Date 04/26/2001
 Agency: Office of the Governor

For distribution information, call the Governor's Legislative Office

add governors salary BC \$100,000 upon m
Jalob 3/8
22-LS0723\O
swearing

CS FOR HOUSE BILL NO. 198(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered: 4/26/01
Referred: Finance

Sponsor(s): REPRESENTATIVE HUDSON

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to a post-retirement pension adjustment for certain persons receiving
2 benefits under the Elected Public Officers Retirement System."

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 RETIREMENT BENEFITS UNDER ELECTED PUBLIC OFFICERS
7 RETIREMENT SYSTEM FOR CERTAIN BENEFIT RECIPIENTS. (a) For a member of
8 the elected public officers retirement system receiving benefits under former
9 AS 39.37.050(a)(1), if the monthly salary and, if appropriate, the additional allowances
10 established under AS 24.10.110, authorized for the office from which the member retired has
11 not increased in at least 15 years, the monthly benefit payable to the member or the member's
12 survivor under former AS 39.37 (elected public officers retirement system) shall be increased
13 as set out in this section. The amount of the increase is an amount equal to the monthly
14 benefit to which the member or survivor is entitled multiplied by 75 percent of the percentage

1 increase in the cost of living since the benefit was last adjusted under this section or former
2 AS 39.37.050(a)(1) or since the member retired under former AS 39.37, whichever is later.

3 (b) Notwithstanding former AS 39.37.050(a)(1), if a benefit is increased under (a) of
4 this section and if the monthly salary and, if appropriate, the additional allowances established
5 under AS 24.10.110, authorized for the office from which a member retired is subsequently
6 increased, the member's or survivor's benefit under former AS 39.37 may not be increased
7 until the increase in benefits based on former AS 39.37.050(a)(1) equals or exceeds the
8 increase based on (a) of this section. If benefits based on former AS 39.37.050(a)(1) increase
9 to more than the increased benefit computed under (a) of this section, the member or survivor
10 is entitled to receive an additional increase based on the difference between the two amounts.

11 (c) The administrator of the public employees' retirement system shall implement this
12 section.

13 (d) When computing a survivor's benefit under former AS 39.37.060, adjustments
14 granted to the deceased member or survivor under this section shall be included.

15 (e) An increase in benefit payments under this section is effective July 1 of each
16 calendar year and is based on the percentage increase in the consumer price index for urban
17 wage earners and clerical workers for Anchorage, Alaska, during the previous calendar year,
18 as determined by the United States Department of Labor, Bureau of Labor Statistics.

19 (f) In this section, "system" means the elected public officers retirement system under
20 former AS 39.37.

adopted

4/28

AMENDMENT

I

Representative Hudson

CS HB 198 (STA)
In the House Finance Committee

Page 1, line 8 following "system" insert: "who has been"

Page 1, line 9 follow "AS 30.37.050(a)(1)" insert: "for at least fifteen years"



REPRESENTATIVE BILL HUDSON Alaska State Legislature

Room 502 • State Capitol, Juneau, Alaska 99801 (907)465-3744 Fax: 465-2273

Sponsor Statement CS HB 198 (STA)

Relating to a post-retirement pension adjustment for persons receiving benefits under the Elected Public Officers Retirement System (EPORS)

The draft committee substitute is an effort to contain the costs of this bill focusing on the most extreme cases requiring correction to the longstanding inequity between retirement benefit calculations for EPORS and PERS members. A statistical review of EPORS retirees, or their surviving spouses, revealed that many members have or will be receiving a benefit adjustment - not from any consideration of cost of living adjustments - but rather from changes in the salaries or additional allowances in the position from which they retired. For instance, twenty-two of the thirty-five EPORS retiree's will receive benefit increases that are tied to legislative salary changes.

The current language concentrates on narrowing the focus to members who have not had any cost of living or other benefit adjustments to their EPORS retirement benefits as have their peers who retired under the PERS retirement system.

Although I strongly believe that the salary for the Governor of the State of Alaska is inadequate, with no increases since 1983 when it was increased from \$80,000 to \$81,648 - during this era of billion dollar budget deficits I have removed Section 1 which had proposed a reasonable increase to \$110,000.

To illustrate the situation, consider two employees, both retire originally in 1982 with an initial benefit of \$40,000. The PERS retiree in 2001 would now be receiving a benefit increased by, on average, fifty percent (75% of the inflationary increases over the interim years) for a total benefit of approximately \$60,000. By contrast, the EPORS benefit amount would still be \$40,000.00. Upon the death of the retiree, the surviving spouse would receive only one-half of this benefit annually.

This is a fair bill designed to equalize future benefits only of the few EPORS retirees and their surviving spouses who have not otherwise seen any change in the retirement received for their service to our state.

CS House Bill 198(STA) Fiscal Note #1 Analysis (continued)

This legislation would add a Post Retirement Pension Adjustment for Elected Public Officers Retirement System beneficiaries:

FY 02 Cost \$47.6

EPORS retirement benefits are based on the salary of the position last held by the retiree. Therefore, as incumbent salaries rise (or fall), so do the benefits of the retirees. The PERS and TRS systems have post retirement pension adjustment provisions, which provide an automatic adjustment based on the rate of inflation. This bill would add a similar provision for those participants who have received benefits for 15 years and not received any increase during that time. Eligible participants would receive an increase of 75% of the increase in the cost of living since the retirement benefit was last adjusted, or since the member retired, whichever is later.

If the salary of the position last held by the retiree increases subsequent to the addition of the Post Retirement Pension Adjustment, the member's retirement benefit is not increased until the adjustment based on the salary increase is more than the 75% cost of living increase afforded by this bill.

HB

1988

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 5/2/01

FURTHER:

REPORTED OUT
MAY 07 2001
SENATE FINANCE
COMMITTEE

DATE TURNED
IN TO OFFICE: 7 May 2002

Finance Committee considered CS FOR HOUSE BILL NO. 198(RLS)(efd add)
HB 198 GOV SALARY; PUB OFFICERS RETIREMENT COLA

"An Act relating to a post-retirement pension adjustment for certain persons receiving benefits under the Elected Public Officers Retirement System, and establishing and relating to a Compensation Commission for State Officials; and provided for an effective date."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:

- same title
- new title

House Bill:

- same title
- technical title
- new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
Leg. Council	7/1/01		✓	

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
Admin	7/1/01	57.4		#4
GOV	4/20/01		✓	#2

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>			✓	
<i>[Signature]</i>	✓			
<i>[Signature]</i>			⊗	
<i>[Signature]</i>			✓	
<i>[Signature]</i>	✓			
COCHAIR:				
COCHAIR: <i>[Signature]</i>			✓	

FISCAL NOTE

REPORTED OUT

MAY 07 2001

SENATE FINANCE
COMMITTEE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

NO. _____
BILL VERSION: HB 198(RLS) (efd add)
PUBLISH DATE: _____

Revision Date: _____
Title: "An act relating to a post-retirement
pension under the Elected Public Officers...."
Sponsor: Representative Hudson
Requestor: Senate Finance Committee

Department Affected: Legislature
BRU: Legislative Council
Component: Council and Subcommittees
Component Number: 783

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 02	FY 03	FY 04	FY 05	FY 06	FY 07
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
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REVENUE FUND SOURCE	0.0	0.0	0.0	0.0	0.0	0.0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS						
OTHER FUND SOURCE						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary)

Costs for the Compensation Commission established under Sec. 2 of HB 198(RLS)(efd add) will be absorbed within the Legislative Council Budget.

Prepared By: Karla Schofield, Deputy Director *Karla Schofield* Phone: 465-3852
Division: Administrative Services Date: 5/4/01
Approved By: Pamela A. Vami, Executive Director *Pamela Vami*
Agency: Legislative Affairs Agency Date: 5/4/01

Distribution (by preparer): Leg. Finance, Legislative Sponsor, Requestor, OMB, Gov. , & Impacted Agency(ies).

FISCAL NOTE

REPORTED OUT
MAY 07 2001
SENATE FINANCE
COMMITTEE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 4
Bill Version: CSHB 198 (RLS)
(H) Publish Date: 5/2/01

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
Title: An Act relating to a post-retirement pension BRU: Special Systems
adjustment and cost-of living allowance.... Component: EPORS
Sponsor: Representative Hudson
Requester: Rules Component Number: 964

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	57.4	62.7	79.4	85.4	91.6	97.9
Miscellaneous						
TOTAL OPERATING	57.4	62.7	79.4	85.4	91.6	97.9

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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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	57.4	62.7	79.4	85.4	91.6	97.9
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	57.4	62.7	79.4	85.4	91.6	97.9

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 page 2 for analysis.

Prepared by: Guy Bell, Director Phone 465-4471
Division: Retirement and Benefits Date/Time May 1, 2001
Approved by: Jim Duncan, Commissioner Date May 1, 2001
Agency: Department of Administration

For distribution information, call the Governor's Legislative Office

Committee Substitute for House Bill 198 (Rules)
Fiscal Note Analysis (continued)

FY 2002 Cost \$57.4

EPORS retirement benefits are based on the salary of the position last held by the retiree. Therefore, as incumbent salaries rise (or fall), so do the benefits of the retirees. The PERS and TRS systems have post retirement pension adjustment provisions, which provide an automatic adjustment based on the rate of inflation. This bill would add a similar provision for those participants who have received benefits for 10 years and not received any increase during that time. Eligible participants would receive an increase of 75% of the increase in the cost of living since the retirement benefit was last adjusted, or since the member retired, whichever is later.

If the salary of the position last held by the retiree increases subsequent to the addition of the Post Retirement Pension Adjustment, the member's retirement benefit is not increased until the adjustment based on the salary increase is more than the 75% cost of living increase afforded by this bill.

This fiscal note assumes that this legislation is effective 6/30/01.

MAY 07 2001

SENATE FINANCE
COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: CSHB 198(STA)
(H) Publish Date: 4/26/01

Revision Date/Time (Note if correction): 04/26/2001 Dept. Affected: Office of the Governor
Title: "An Act relating to a post-retirement pension... and increasing the compensation of the governor". BRU: Executive Operations
Sponsor: Representative Hudson Component: Executive Office
Requester: House State Affairs Component Number: 6

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	0.0	0.0	0.0	0.0	0.0	0.0
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

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

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)

CS HB198 deletes the previously proposed pay raise for the governor, resulting in no fiscal impact for the Office of the Governor.

Prepared by: Michael A. Nizich, Administrative Director Phone 465-3876
Division: Administrative Services Date/Time 4/26/01 12:00 AM
Approved by: David Ramseur Date 04/26/2001
Agency: Office of the Governor

For distribution information, call the Governor's Legislative Office

Alaska State Legislature

REPRESENTATIVE BILL HUDSON
House Finance Committee

State Capitol
Juneau, Alaska
99801-1182
(907) 465-3744
Fax (907) 465-2273

MEMORANDUM

TO: Senator Pete Kelly, Co-Chair,
Senate Finance Committee

FROM: Representative Bill Hudson *Bill*

SUBJECT: CS HB 198 (RLS)(efd add) Sectional Analysis

DATE: May 4, 2001

The following is a sectional analysis for the above-described bill. Please note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

HB 198 has had four public hearings in the House, has been amended to my approval, and carries with it a very reasonable fiscal note.

Section 1 amends the Elected Public Officers Retirement System (EPORS) by directing the administrator of the retirement system to increase the benefits of retired members who have been receiving a benefit under EPORS for at least ten years, if the monthly salary and additional allowances authorized for the office from which the member retired has not also been increased in at least ten years. Subsection (a) sets out the increase for the retiree as 75% of the percentage increase in the CPI. Subsection (b) notes that if there are subsequent increases in the salary or allowances to the position from which the retiree retired, those increases would not be considered until the increase would exceed the increase based on (a) of this new section.

Sec. 2 establishes a compensation commission to make recommendations to the legislature concerning equitable rates of compensation, benefits, and allowances for the governor, lieutenant governor, members of the legislature, and heads of the principal departments of state government. Subsections (b, c, and d) establish the composition of the Commission. Subsection (e) requires that this report be presented to the legislature by January 15, 2002.

Sec. 3 sets the effective date of this Act on June 30, 2001.

SENATE FINANCE COMMITTEE

SIGN-IN

HB 198-PUB OFFICERS RETIREM'T COLA/COMPENSATION

NAME: Rep. Bill Hudson Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

HB

203

HAFIN

FILE



Alaska State Legislature

*Representative Peggy Wilson
Putting Alaska's Families First*

SPONSOR STATEMENT

HB 203

“ An Act making an appropriation to the Legislative Council for a study of school district cost factors; and providing for an effective date.”

Alaska has a constitutional obligation to provide a full education for all students. The challenge inherent in this mission is to account for diverse geographic, cultural and economic conditions.

The formula currently employed, while well-intentioned, has unintentional consequences. A design error, which tracked expenses as opposed to actual costs of doing business in each school district, has resulted in flawed district cost factors. Failure to precisely measure differential costs across the state has resulted in inequitable funding.

What is the cost of providing an education in each school district as it relates to Anchorage as a base? What are the exact costs of electronic communications in Yakutat? What is the specific cost of fuel in Dillingham? What are the property insurance rates in Tok? What does it cost to get a school fire code inspector to Angoon?

HB 203 will provide factual answers to these questions. HB 203 proposes an independent study of school cost differentials to be contracted by the Legislative Council at the cost of \$350,000.

Contact Representative Peggy Wilson

3/23/01

3

CS FOR HOUSE BILL NO. 203(EDU)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE HOUSE SPECIAL COMMITTEE ON EDUCATION

Offered: 4/5/01
Referred: Finance

Sponsor(s): REPRESENTATIVES WILSON, Lancaster, Cissna, Stevens

A BILL

FOR AN ACT ENTITLED

1 "An Act making an appropriation to the Legislative Council for a study of school
2 district cost factors; and providing for an effective date."

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

4 * Section 1. LEGISLATIVE INTENT. The Alaska State Legislature intends that the
5 Legislative Council ^{(#4) in consultation with the DEED and (#2)} use the appropriation made by sec. 2 of this Act to prepare ~~or~~ contract for
6 the preparation of a study ^{Recommending to be (#3)} of the district cost factors, used as a component of the formula for
7 determining funding of public education under AS 14.17.460 and submit the study to the
8 legislature by January 15, 2002. The study ^{Providing an education (#1)}
9 (1) should be based on the cost of ~~doing business~~ in each school district;
10 (2) should consider the cost of living, including the cost of food, housing,
11 utilities, transportation, medical expenses, property values, or other costs that contribute to the ^{actual}
12 cost of ~~doing business~~; ^{operating a school (#1)}
13 (3) should use Anchorage as a base value for comparing costs between school
14 districts;

1 (4) may consider information from state, federal, or private sources to
2 document cost differentials between districts; and
3 ^{shall (→ ?)}
(5) ~~may~~ be completed by contract.

4 * Sec. 2. LEGISLATIVE COUNCIL. The sum of \$350,000 is appropriated from the
5 general fund to the Legislative Council for a study of school district cost factors for the fiscal
6 year ending June 30, 2002.

7 * Sec. 3. This Act takes effect July 1, 2001.

ALASKA SCHOOL OPERATING COST STUDY

REVIEW OF CALCULATED COST FACTORS

PREPARED FOR:

**Alaska Department of Education
and Early Development**

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Statement of the Situation

In early 1998, the McDowell Group prepared the *Alaska School Operating Cost Study* for the State of Alaska Legislative Budget and Audit Committee. The purpose of the study was to determine adjustment factors that compensate for the impact of school size and geographical location on school operating costs. These factors were incorporated into the Public School Funding Formula.

It is important to stress that this study dealt with only one piece – operating costs – of a large and complex puzzle termed the School Foundation Formula. It was not intended to determine the cost of basic educational (Basic Need), but only how to allocate a portion of Basic Need (i.e., certain school operating costs) as defined by legislative appropriation. Also, Basic Need is only a starting point for public school funding; many adjustments are made for local contributions, federal impact aid, special needs, and other factors. Since the report was published, additional legislation has been enacted which has “adjusted” the District Cost Factors; all of these adjustments have been determined outside of the study analysis.

In our report, we cautioned the Committee that this was an important step, but only a first step in the process of transforming the funding process into one that has a scientific and empirical basis. Previous to 1998, District Cost Factors were based primarily on outdated (1985) household market basket costs unrelated to the cost of operating schools. A major advance of the Alaska School Operating Cost Study was, for the first time since statehood, to base District Cost Factors on what it cost to actually operate schools. The priority focus of the study effort was placed on the most significant part of operating costs, namely school level or instructional costs accounting for at least 70% of the total. The second major advance was to base school level (instructional) costs on standards for staffing schools of various sizes. The result was a sound defensible means of allocating instructional costs consistent from district to district that allows for updating based on changes in ADM.

However, such a standard was not possible for district level costs and the solution was an imperfect one that now prevents updating of the district level cost component of the DCF. Instead of a uniform standard like that calculated for school size, districts were simply allocated district level costs based on each district's actual expenditures per student in FY 1996, the most recent year available at the time of the study. As a result of this acknowledge shortcoming, we recommended that the Committee implement a transition period to evaluate if adjustments are needed, and put further work into understanding the non-personnel and administrative costs, research that eventually could lead to standards for district level costs.

The Alaska Department of Education and Early Development is now in the process of recalculating the cost factors using 1999 data. Several issues and concerns about the District Cost Factors have emerged in this work. The McDowell Group views this situation as an excellent opportunity to review the assumptions, strengths and limitations of our earlier study.

Recommendations for Further Work

The 1998 McDowell Study put significant analysis into school level (instructional) costs, which comprise the major percentage of school operating costs. This analysis produced a methodology that can be updated yearly with the assurance of providing meaningful allocations.

As stated in the 1998 report, the State of Alaska should continue to improve its Public School Funding Formula and engage a similar quantitative effort into district level costs. Though the magnitude of these costs is well below instructional costs, they comprise a value that is certainly significant and can impact many districts, especially those on the margin of adequate funding. Data collection and standardization has apparently improved to the point that such a study will produce meaningful results.

Updating the District Cost Factors using the current methodology with 1999 data will result in more questions than answers. We recommend that the current DCF's be maintained and the Department's efforts be placed in re-examining the methodology.

There are two primary approaches to an analysis of district level costs. The first is a study similar to the one in 1998 that seeks to understand the reasons for why these costs vary by school size and location. For these types of indirect costs, a typical study would be to determine major cost pools and identify unique drivers for the pools. A private industry approach to understanding indirect costs is to develop cost pools based on distinct activities, hence the name activity-based costing (or ABC). The ABC approach has become quite popular in the public sector as well, as it can lead to the creation of standards that can be used to monitor and control indirect costs.

The second approach is a rate-setting approach. Indirect cost would be examined to the extent that expenditure goals could be developed. A funding methodology could then be devised to provide incentives to school districts for achieving these goals. This approach requires a more clearly defined public policy component than the activity-based approach.

In closing, the McDowell Group offers a two-step recommendation. The first is to assemble a preliminary study team comprised of Alaska education experts with a mix of rural and urban school district operations experience. This study team would determine and examine critical issues and develop project objectives. The second step is to design an on-going cost research program that specifies data that will properly account for regional and school size differences in district level and administrative costs.



Public School Funding Formula District Cost Factors

study methodology shows that those schools with correspondence students have an elevated cost factor. For example, Galena's cost factor is set in statute at 1.348 but using the cost study methodology with FY99 correspondence dollars assigns Galena a cost factor of 6.631. The increases the methodology calculates for districts with correspondence students are not warranted by increased costs. Additionally, because the formula simply divides each district's average basic need per student by the statewide average basic need per student, the impacts affecting districts with correspondence studies are also carried into the statewide average.

By using a calculation based on adjusted average daily attendance and average basic need to calculate cost factors any imperfections in the adjustment to average daily attendance or in the determination of basic need, are incorporated into district cost factors. Further, without identifying the underlying elements of true cost differences there is not a process to evaluate outcomes.

Conclusion

The 1998 Alaska School Operating Cost Study reported that compensating districts for actual district costs incurred was an unsatisfactory long-term solution. Based on our review of the methodology, and the outcome of calculation using FY99 data, we agree with the study's conclusion that the current methodology is unsatisfactory.

We recommend that a request-for-proposal be developed that requires identification of the underlying elements affecting school costs and determines a methodology for measuring those underlying elements. This will improve our cost factor methodology from that of compensating districts for current basic need to an improved method of allocating funding based on differences in applicable costs.



Public School Funding Formula *District Cost Factors*

Consideration should be given to the elements that contribute to costs in school districts. The investigation should evaluate whether the previously studied elements of travel, supplies, utilities, insurance, and communication correctly identify cost elements in districts, or whether other items should be added, or if different factors driving school district costs are applicable. Once the underlying elements are identified, a measurement tool applicable to each element should be identified.

The results obtained from recalculating cost factors using FY99 data under the 1998 cost study methodology do not provide a basis to recommend changes to existing cost factors because the formula does not adequately evaluate for cost differences in district level costs and the methodology does not adequately account for changes in the foundation formula after SB 36.

Recommendation

The department recommends that district cost factors remain at their current levels as designated in statute under AS 14.17.460 because there is not any empirical data to support changing the district cost factors at this time. The department also recommends that a new district cost model be developed to properly account for cost differences between districts on an ongoing basis.

IV. Conclusion – Continuous Improvement

Alaska adopted the Quality Schools Initiative with the understanding that **ALL** children can reach higher standards. Furthermore, the Quality Schools Initiative promises that no child will be left behind. This indeed is an enormous undertaking and is the first time the State of Alaska has made such a promise to *all* children.

That promise means every child will read, write and do math at higher levels than ever before. It means schools and parents will no longer let children move through the grades without gaining essential skills along the way. It means more children will have a bright future and will become good citizens.

It means Alaska's policy makers need to follow through and provide the support and necessary resources that teachers and schools need in order for Alaska to make good on its promise to youth.

Members of the task force recognized from the outset the challenge in estimating the funds needed to educate *all* Alaska students to high standards. In structuring the assignment for the task force, members relied on the staff of the Department of Education & Early Development to provide extensive background information. Issues related to prior statutory amendments to the foundation formula, cost-of-doing-business in relationship to annual allocations of funds through the formula, analyses of district expenditures of funds, and individual and professional experiences all played a significant role in the formulation of the recommendations.

Task force members extensively examined the recent report entitled *Alaska's Public School Funding Formula: A Report to the Alaska State Legislature*. In reviewing the report, the task force

- agreed that districts had lost purchasing power;
- concluded that a new methodology needs to be determined to more precisely fund the cost-of-doing-business in each Alaska community; and
- recognized that the foundation formula's funding floor reduction should be suspended until a new district cost factor study is conducted and fully implemented.

Sec. 14.17.450. School size factor. (a) For purposes of calculating a school's ADM to determine state aid, the ADM of each school in a district shall be computed by applying the following formula:

If the student count in a school is		The adjusted student count is				
At least	But less than	Base	Multiplier	The number of students in excess of		
10	- 20	39.6				
20	- 30	39.6	+	(1.62	x	20)
30	- 75	55.8	+	(1.49	x	30)
75	- 150	122.85	+	(1.27	x	75)
150	- 250	218.1	+	(1.08	x	150)
250	- 400	326.1	+	(0.97	x	250)
400	- 750	471.6	+	(0.92	x	400)
750 or over		793.6	+	(0.84	x	750).

(b) If the ADM in a school is less than 10, those students shall be included in the ADM of the school in that district with the lowest ADM as determined by the most recent student count data for that district. (§ 2 ch 83 SLA 1998)

Sec. 14.17.460. District cost factors. (a) For purposes of calculating a district's adjusted ADM under AS 14.17.410(b)(1), the district cost factor for a school district is as follows:

DISTRICT	DISTRICT COST FACTOR
Alaska Gateway	1.291
Aleutians East	1.423
Aleutians Region	1.736
Alyeska Central School	1.000
Anchorage	1.000
Annette Island	1.011
Bering Strait	1.525
Bristol Bay	1.262
Chatham	1.120
Chugach	1.294
Copper River	1.176
Cordova	1.096
Craig	1.010
Delta/Greely	1.106
Denali	1.313
Dillingham	1.254
Fairbanks	1.039
Galena	1.349
Haines	1.008
Hoonah	1.055
Hydaburg	1.085
Iditarod	1.470
Juneau	1.005
Kake	1.025
Kashunamiut	1.389
Kenai Peninsula	1.004
Ketchikan	1.000
Klawock	1.017

Kodiak Island	1.093
Kuspuk	1.434
Lake and Peninsula	1.558
Lower Kuskokwim	1.491
Lower Yukon	1.438
Matanuska-Susitna	1.010
Mt. Edgecumbe	1.000
Nenana	1.270
Nome	1.319
North Slope	1.504
Northwest Arctic	1.549
Pelican	1.290
Petersburg	1.000
Pribilof	1.419
Sitka	1.000
Skagway	1.143
Southeast Island	1.124
Southwest Region	1.423
St. Mary's	1.351
Tanana	1.496
Unalaska	1.245
Valdez	1.095
Wrangell	1.000
Yakutat	1.046
Yukon Flats	1.668
Yukon/Koyukuk	1.502
Yupit	1.469

(b) The department shall monitor the cost factors established under (a) of this section and shall prepare and submit to the legislature by January 15 of every other fiscal year proposed district cost factors. (§ 2 ch 83 SLA 1998)

Cross references. — For transitional provisions required under (b), see § 41, ch. 83, SLA 1998 in the relating to initial proposed district cost factors re- 1998 Temporary and Special Acts.

Sec. 14.17.470. Base student allocation. The base student allocation is \$3,940. (§ 2 ch 83 SLA 1998)

Sec. 14.17.480. Quality school funding. (a) As a component of public school funding, a district is eligible to receive a quality school funding grant not to exceed the district's adjusted ADM multiplied by \$16. The department shall by regulation establish a grant process to implement this section.

(b) For purposes of the reduction required under AS 14.17.400(b), funding authorized under (a) of this section is treated the same as the state share of public school funding under AS 14.17.410. (§ 2 ch 83 SLA 1998)

Sec. 14.17.490. Public school funding adjustments. (a) Except as provided in (b) (e) of this section, if, in fiscal year 1999, a city or borough school district or a regional educational attendance area would receive less public school funding under AS 14.17.410 than the district or area would have received as state aid, the district or area is, in each fiscal year, eligible to receive additional public school funding equal to the difference between the public school funding the district or area was eligible to receive under AS 14.17.410 in fiscal year 1999 and the state aid the district or area would have received in fiscal year 1999.

(b) A city or borough school district is not eligible for additional funding authorized under (a) of this section unless, during the fiscal year, in which the district receives