

ALASKA LEGISLATURE COMMITTEE FILES 2001-2002 8672

10421 HOUSE STATE AFFAIRS

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A key parameter for examining the presence of these properties is the degree of *progressivity* of the fiscal system.

Proportional, Progressive and Regressive Fiscal Systems

A proportional fiscal system is one in which the state's take is proportional to the profitability of the project. A system where the state's share of profits increases as profits increase is progressive. A system where the state's share of the profits increases as profits decrease (and decrease as profits increase) is called regressive.

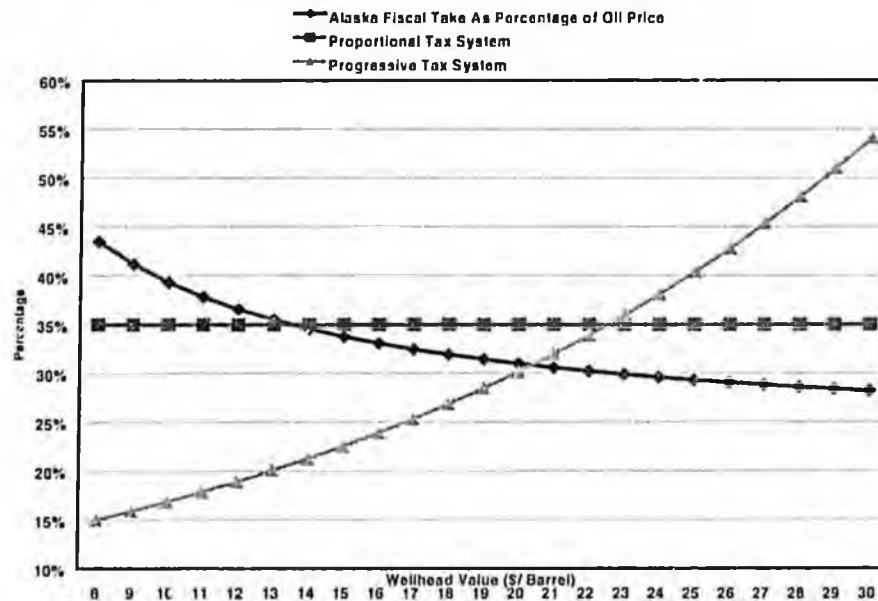
Regressive systems create investment risk. Because the state's take is high at low prices, the risk to the investor of either high costs or low prices is exacerbated. Regressive systems also result in low government takes at high prices.

Alaska's petroleum fiscal system is regressive. The state's share as a percentage of the profits drops at higher prices. For instance, in FY 1999 when the wellhead price for North Slope oil averaged just \$8.50 per barrel, we estimate the state's share to be about 45 percent of the pre-tax profit (assuming \$3 per barrel in upstream operating and depreciation costs). In 2000, the wellhead price averaged \$19 a barrel and we estimate the state's share of the pre-tax profit at a little more than 30 percent.

Alaska's share of the profits at low prices is higher than many other oil-producing nations earn at comparable prices, but when prices are high is lower than most other governments earn.

The chart below illustrates Alaska's regressive fiscal system compared to what progressive and proportional systems might look like.

Regressive, Progressive and Proportional Fiscal Systems



HB 1 Move Legislature to Anchorage Fiscal Note Calculation

	<u>FY 98</u>	<u>FY 99</u>	<u>FY 00</u>	<u>FY 01</u>	<u>FY 02</u>	<u>FY 03</u>	<u>FY 04</u>	<u>FY 05</u>	<u>FY 06</u>	<u>FY 07</u>
% Change Anchorage CPIU	1.5%	1.2%	1.2%	1.5%	1.5%	2.0%	2.0%	2.5%	2.5%	2.5%
Administration	81.7	74.7	74.7	74.7			91.0	85.3	85.3	85.3
Commerce	105.1	105.1	105.1	105.1			117.1	117.1	117.1	117.1
Corrections	59.9	59.9	59.9	59.9			66.7	66.7	66.7	66.7
Education	92.7	92.7	92.7	92.7			103.3	103.3	103.3	103.3
Environmental Conservation	86.7	89.3	92.0	94.7			96.6	99.0	101.5	104.0
Fish and Game	205.7	208.2	210.7	213.8			229.2	234.9	240.8	246.8
Governor	755.0	610.2	616.3	623.7			841.2	696.9	714.3	732.2
Health & Social Services							395.4	395.4	395.4	395.4
Labor	55.4	58.2	61.1	64.1			61.7	63.3	64.9	66.5
Law	318.7	258.7	258.7	258.7			355.1	295.4	295.4	295.4
Military and Veterans Affairs	8.0	8.0	8.0	8.0			8.7	8.7	8.7	8.7
Natural Resources	-	-	-	-			-	-	-	-
Public Safety Total	70.7	70.7	70.7	70.7			78.8	80.7	80.7	80.7
Revenue	145.4	151.2	157.3	163.5			162.0	166.1	170.2	174.5
Transportation and Public Facilities	86.9	90.7	94.6	98.8			96.8	99.2	101.7	104.3
Total Executive Branch	2,071.9	1,877.6	1,901.8	1,928.4			2,703.7	2,512.1	2,546.1	2,581.0



Alaska State Legislature

Please enter into the record my testimony to the HOUSE STATE AFFAIRS
committee name

Committee on HB 10 / Income Tax Bill
bill # / subject

Signed: Lawrence D. Meshkin and Marie H. Holley
Testifier

Ourselves
Representing (optional)

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Address

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Phone number

March 22, 2002

We very strongly disagree with the graduated income tax plan as a way to pay the expenses of this state.

Many American, due to its inequality and unfairness, hate the graduated (or so-called "progressive") income tax. It has been the subject of intense debate at the national and state level.

We feel that the graduated income tax treats citizens unequally and is blatantly unfair, discriminatory and immoral. Immoral because taxes are private property (money) taken by the state through the use of force and used for other people's benefit. The taxpayer may not use most of the services he is forced to pay for. It would be immoral if I went to my neighbor's house and forced him to pay for my child's shoes. I would be branded a thief. This is exactly similar to what it done with much of government services.

This proposed state tax would give the burden of paying the majority of the state's expenses to only the wealthiest of its citizens and also to those who are not its citizens. The rest of Alaskans would pay little or none of this tax. The citizens who paid little or none of this tax may even use more government services than those who paid for it would.

Citizens who paid little or no tax would not work to keep government expenses under control because they wouldn't have to pay for it. They may even use government services more wastefully and freely because

someone else is paying the bill. They could vote for more government services that they didn't have to pay for. It could be sort of like having all of your married kids living at home eating all of the food, leaving the lights on and having the furnace turned up high since they weren't paying the bill.

The national income tax used to be unconstitutional because it was a direct tax. Then the constitution was changed. When first introduced, the income tax was very low until it finally grew into the nightmare that it is today.

Another objection I have to this tax is that it would also tax a non-resident, who does not live here and would use none of the state services to the degree that he is forced to pay for them. Some people like to think that there is a pile of unearned wealth sitting somewhere and that it is the job of the state to distribute it to those it sees fit. They feel that a non-resident is somehow collecting unearned wealth for himself in some immoral manner. They feel that he is taking a job away from an Alaskan and that he had better pay for that "privilege". Jobs (nor wealth) are not created by the state to be handed out to the politically favored. In a free country, they are created by private industry, which enters into voluntary exchanges of goods and services with free individuals (workers and consumers). Alaska used to force people to have resident cards in the past (as if this were the former USSR) to be able to work here until it was ruled to be unconstitutional. This residency card sentiment remains strong and some people feel that an income tax is a way to get non-residents to pay for these supposed wrongs against the state that he is committing by working here.

I like this quote from the recently departed philosopher, Robert Nozick: "Taxation of earnings from labor is on a par with forced labor".

Here an observation made by Frederic Bastiat, a 19th century French philosopher-economist: A man who produces while others dispose of his product is a slave. That's the essence of slavery: one person forcibly used to serve the purposes of others. See the following web link
<http://www.jewishworldreview.com/cols/williams091599.asp>

Here is a statement from Walter Williams (Walter E. Williams is the John M. Olin Distinguished Professor of Economics at George Mason University): Plunder is when people forcibly take the property of another. It's legalized plunder when people use government to do the same thing. Or, as Bastiat put it, "The state is the great fiction by which everybody tries to live at the expense of everyone else." See the following web link:
http://www.worldnetdaily.com/news/article.asp?ARTICLE_ID=23576

Alan Keyes (2000 presidential candidate) said: "Any income tax is tax-slavery"
See web link: http://www.issues2000.org/More_Alban_Keyes_Tax_Reform.htm

The following is a quote from a scholarly work by Christopher Stuart Young called "*Death of the 1040: Replacing the Federal Income Tax.*"

"As government increased its role in financing social programs, income taxes became heavier and heavier, and the inherent nature of our progressive income-tax system became apparent: it was a tool for forced redistribution of wealth by the state.

"Perhaps not many Americans today recognize redistribution of wealth by the state as a major goal of communism. Karl Marx and Friedrich Engels, authors of *The Communist Manifesto* in 1848, would be pleased to see that we have come to tolerate and even embrace one of their major tenets designed to facilitate the conversion of an 'advanced' free-market nation to communism.

"Tenet No.2 of *The Communist Manifesto* calls explicitly for 'a heavy progressive or graduated income tax.'
"Is it any wonder that we experience injustice and confusing complexity as we strive to adapt this communistic method of taxation, a progressive income tax, to what we uphold as sacred-a free society and a free economy that enjoys the creative and productive motivations of free enterprise?"

See these following 2 web links:

<http://www.nccs.net/store/newsletter/mar96nl.html>

Go to this web link for The Communist Manifesto and do a search for progressive or graduated income tax:
<http://csf.colorado.edu/psn/marx/Archive/1848-CM/cm.html>

- In Alaska we spend around \$12,000 for every man woman and child in Alaska. Hawaii spends around \$5,000 for every man, woman and child and this is considered high. We have a small population with the budget of some small countries.
- Cut state spending and implement a constitutional cap for our out of control spending. Shrink the government bureaucracy and waste that has been created from all of the past (now dwindling) oil wealth.
- Sell state land and assets starting with the Alaska Railroad (governments should not be involved in what should be a private concern in a free country).
- Return to only constitutionally mandated government services. If our constitution rewards some citizens at the expense of others, then change it at some future date.
- Privatize where it is at all possible. Go to users' fee based system where it can be done.
- The fuel tax for the road system is just one example that is sort of a user's fee program. People then pay for what they use (the road system;) by their own free will and choice. This fuel tax should be only used for the road system and nothing else. The fuel tax should be marked on the fuel pump like the price of gas so that it is not hidden. There should be no hidden taxes. We should know the price we pay for government to keep it under control. People should be fully aware of any taxes they pay just like for private goods and services.
- Don't create a system of legalized plunder with an income tax to force some people to pay for other people's consumption of government services.
- We can do better in cutting spending than what has been done. We must do this because it is the right and moral thing to do.
- Taxation is a moral issue because it involves the use of force (by government) upon people who have not threatened or harmed other people.
- Passing an income tax would be wrong and immoral for some of the reasons we have listed above. It matters not that other states and the federal government have an income tax. Being in the majority does not make the majority right. Not all laws are right nor necessarily moral just because they are legal. Slavery used to be legal in our national past.

We respectfully ask you to please vote no on any income tax proposal.

Thank you for your time and efforts.

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maholley@hotmail.com

Employer withholding

Real & Property Tax Credit

#200 ~~million~~ Revenues \$7
Administrative Cost ~~million~~

~~Amendment~~

^{Committee}
C Substitute

1st 1590

2nd 2070



Principle of operation of income tax

Benefit of income tax

Property Tax

22-LS0007\F
Kurtz
2/8/02

CS FOR HOUSE BILL NO. 10()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE MOSES

A BILL
FOR AN ACT ENTITLED

1 "An Act relating to the taxation of income."

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

3 * Section 1. AS 43.20.011 is amended by adding new subsections to read:

4 (g) For each taxable year or fractional part of a taxable year after
5 December 31, 2002, there is imposed a tax upon the taxable income of every resident,
6 nonresident, and part-year resident individual and fiduciary of the state. The tax
7 imposed by this subsection is determined as a percentage of the taxpayer's entire
8 federal income tax liability, except that the tax on a nonresident or part-year resident
9 individual or fiduciary is the tax determined as a percentage of the taxpayer's entire
10 federal income tax liability multiplied by a fraction the numerator of which is the
11 taxpayer's taxable income from sources in the state and the denominator of which is
12 the taxpayer's taxable income from all sources. The tax is determined as follows:
13 if the taxpayer's entire federal income tax liability is: then the tax, as a percentage
14 of the taxpayer's entire federal income tax liability, is:
15

1	not more than \$20,000	15 percent
2	over \$20,000	20 percent.

3 (h) An individual shall determine the tax under (g) of this section using the
 4 same filing status as used on the individual's federal income tax return.

5 * Sec. 2. AS 43.20.030(a) is amended to read:

6 (a) An individual, fiduciary, [IF A] corporation, or [A] partnership that has a
 7 corporation as a partner, that is subject to the tax imposed in AS 43.20.011 and is
 8 required to make a return under the provisions of 26 U.S.C. ([THE] Internal Revenue
 9 Code), [IT] shall file with the department [, WITHIN 30 DAYS AFTER THE
 10 FEDERAL RETURN IS REQUIRED TO BE FILED,] a return setting out

11 (1) the amount of tax due under this chapter, less allowable credits
 12 and payments claimed against the tax; and

13 (2) other information for the purpose of carrying out the provisions of
 14 this chapter that the department requires

15 * Sec. 3. AS 43.20.030(c) is amended to read:

16 (c) The [NOTWITHSTANDING (a) OF THIS SECTION, THE] total amount
 17 of tax imposed by this chapter is due and payable to the department at the same time
 18 and in the same manner as the tax payable to the United States Internal Revenue
 19 Service.

20 * Sec. 4. AS 43.20.030(d) is amended to read:

21 (d) A taxpayer [, UPON REQUEST BY THE DEPARTMENT,] shall file
 22 with the return [FURNISH TO THE DEPARTMENT] a [TRUE AND] correct copy
 23 of the taxpayer's tax return [WHICH THE TAXPAYER HAS] filed with the United
 24 States Internal Revenue Service for the taxable year. Every taxpayer shall file an
 25 amended return with the department, and remit any additional tax and interest
 26 due, [NOTIFY THE DEPARTMENT IN WRITING OF ANY ALTERATION IN,
 27 OR MODIFICATION OF, THE TAXPAYER'S FEDERAL INCOME TAX RETURN
 28 AND OF A RECOMPUTATION OF TAX OR DETERMINATION OF
 29 DEFICIENCY, WHETHER WITH OR WITHOUT ASSESSMENT. A FULL
 30 STATEMENT OF THE FACTS MUST ACCOMPANY THIS NOTICE. THE
 31 NOTICE SHALL BE FILED] within 60 days after the final determination of the

1 taxpayer's federal tax liability [MODIFICATION, RECOMPUTATION OR
2 DEFICIENCY, AND THE TAXPAYER SHALL PAY THE ADDITIONAL TAX OR
3 PENALTY UNDER THIS CHAPTER]. For purposes of this section, a final
4 determination means [SHALL MEAN] the time that an amended federal return is
5 filed or the date a federal [A NOTICE OF DEFICIENCY OR AN] assessment is
6 made [MAILED TO THE TAXPAYER BY THE INTERNAL REVENUE
7 SERVICE, EXCEPT THAT IN NO EVENT WILL THERE BE A FINAL
8 DETERMINATION FOR PURPOSES OF THIS SECTION UNTIL THE
9 TAXPAYER HAS EXHAUSTED RIGHTS OF APPEAL UNDER FEDERAL
10 LAW].

11 * **Sec. 5.** AS 43.20 is amended by adding a new section to read:

12 **Sec. 43.20.032. Tax calculation for nonresidents and part-year residents**
13 **and fiduciaries.** (a) In computing the tax under AS 43.20.011(g) of a nonresident or
14 a part-year resident individual, or a fiduciary, the part of the taxpayer's taxable income
15 attributable to sources in the state is determined under AS 43.20.040.

16 (b) In computing the taxpayer's taxable income attributable to sources in the
17 state for a nonresident or a part-year resident individual, or a fiduciary, deductions and
18 adjustments are allowed only to the extent that they are connected with income that
19 arises from sources in the state or property having a situs for taxation in the state.

20 * **Sec. 6.** AS 43.20.040(b) is amended to read:

21 (b) In this section, income is from a source having a taxable or business situs
22 in the state if it is derived from

- 23 (1) owning or operating business facilities or property in the state;
24 (2) conducting business, farming, or fishing operations in the state;
25 (3) [REPEALED

26 (4)] a partnership that [WHICH] transacts business in the state;

27 (4) [(5)] a corporation that [WHICH] transacts business in the state
28 and that [WHICH] has elected to file federal returns under 26 U.S.C. 1361 - 1379
29 (Subtitle A, Ch. 1S, Internal Revenue Code) [SUBCHAPTER S OF THE
30 INTERNAL REVENUE CODE];

31 (5) [(6) REPEALED

1 (7)] engaging in any other activity from which income is received,
2 realized, or derived in the state;

3 (6) working for salary or wages in the state;

4 (7) an estate or trust deriving income from sources in the state.

5 * Sec. 7. AS 43.20.040 is amended by adding a new subsection to read:

6 (d) With regard to the tax under AS 43.20.011(g), if a business, trade, or
7 profession, other than the rendering of purely personal services, is carried on partly
8 inside and partly outside the state, the income from sources in the state is determined
9 under AS 43.19 (Multistate Tax Compact).

10 * Sec. 8. AS 43.20 is amended by adding a new section to read:

11 **Sec. 43.20.062. Credits against tax.** (a) The amounts deducted and withheld
12 as taxes under this chapter during a calendar year are allowed as credits to the taxpayer
13 against the tax imposed by this chapter.

14 (b) A resident or part-year resident is allowed as a credit against the tax
15 otherwise due under this chapter the amount of income tax imposed on the taxpayer
16 for the taxable year by another state or territory of the United States on income derived
17 from sources in the other state or territory that is also subject to tax under this chapter.
18 However, the credit allowed in this subsection is limited to that proportion of the tax
19 computed under this chapter that the taxable income from the other state or territory
20 bears to total taxable income, and the credit may not exceed the actual tax paid to the
21 other state or territory.

22 (c) An individual or fiduciary is allowed as a credit against the tax otherwise
23 due under this chapter the amount of any real and personal property taxes paid by the
24 individual or the fiduciary to a municipality in this state under AS 29.45.

25 * Sec. 9. AS 43.20.065 is amended to read:

26 **Sec. 43.20.065. Allocation and apportionment.** A corporate taxpayer who
27 has income from business activity that is taxable both inside and outside the state or
28 income from other sources both inside and outside the state shall allocate and
29 apportion net income as provided in AS 43.19 (Multistate Tax Compact), or as
30 provided by this chapter.

31 * Sec. 10. AS 43.20 is amended by adding a new section to read:

1 **Sec. 43.20.171. Collection of income at source.** (a) Every employer making
2 payment of wages or salaries after December 31, 2002, shall deduct and withhold an
3 amount of tax computed in a manner to approximate the amount of tax due on those
4 wages under this chapter for that year. The employer shall remit withheld taxes to the
5 department, together with a return or report prescribed by the department, at the time
6 or times required by the department by regulation. The department shall publish the
7 rate of withholding required by this section. Every employer making a deduction and
8 a withholding shall furnish to the employee no later than January 31 of the succeeding
9 year, or within 30 days after termination of employment, whichever is earlier, a
10 written statement on a form prescribed by the department showing

- 11 (1) the name and taxpayer identification number of the employer;
- 12 (2) the name and social security number of the employee;
- 13 (3) the total amount of wages and other compensation; and
- 14 (4) the total amount deducted and withheld as tax.

15 (b) Every employer making payments of wages or salaries earned in the state,
16 regardless of the place where the payment is made,

17 (1) is liable for the payment of the tax required to be deducted and
18 withheld under this section and is not liable to an individual for the amount of the
19 payment; and

20 (2) shall make return of and pay to the department the amount of tax
21 levied that the employer is required to deduct and withhold under this chapter.

22 (c) An employer who fails to comply with this section is subject to the
23 penalties set out in AS 43.05.220(d).

24 (d) If the employer is the United States or the state or a political subdivision of
25 the state, or an agency or instrumentality of one or more of those entities, the return of
26 the amount deducted and withheld on wages or salaries may be made by an officer of
27 the employer having control of the payment of the wages or salaries or who is
28 appropriately designated for that purpose.

29 (e) In this section, "employee," "employer," and "wages" have the meanings
30 given to them under 26 U.S.C. (Internal Revenue Code).

31 * **Sec. 11.** AS 43.20.200(b) is amended to read:

1 (b) The same period of limitation upon the assessment and collection of taxes
2 imposed under this chapter and the same exceptions to it shall apply as provided in 26
3 U.S.C. 6501 - 6503 (Internal Revenue Code). In the case of additional tax due by
4 reason of a modification, recomputation, or determination of deficiency in a taxpayer's
5 federal income tax return, the period of limitation on assessment commences from the
6 date that the amended return [NOTICE] required in AS 43.20.030(d) is filed, and, if
7 no amended return [NOTICE] is filed, the tax may be assessed at any time.

8 * Sec. 12. AS 43.20.340 is amended to read:

9 **Sec. 43.20.340. Definitions.** In this chapter,

10 (1) "bank" means a financial institution including a national banking
11 association;

12 (2) "corporation" includes an association, joint-stock company, and an
13 insurance company;

14 (3) "fiduciary" means an estate, trust, guardian, trustee, executor,
15 administrator, receiver, conservator, or a person acting in a fiduciary capacity
16 for another or for the estate of a deceased person; [REPEALED]

17 (4) "fiscal year" means an accounting period of 12 months ending on
18 the last day of a month other than December;

19 (5) "individual" means a natural person, married or unmarried,
20 adult or minor, who is subject to the obligation to pay an income tax under 26
21 U.S.C. (Internal Revenue Code) ["INCLUDES" AND "INCLUDING" WHEN
22 USED IN A DEFINITION DO NOT EXCLUDE OTHER THINGS OTHERWISE
23 WITHIN THE MEANING OF THE WORD DEFINED];

24 (6) "Internal Revenue Code" means the Internal Revenue Code of the
25 United States (26 U.S.C.) as the code exists now or as hereafter amended, as the code
26 and amendments apply to the normal taxes and surtax on net incomes, which
27 amendments are operative for the purposes of this chapter as of the time they became
28 operative or will become operative under federal law;

29 (7) "nonresident" means an individual who is not a resident or
30 part-year resident;

31 (8) "part-year resident" means an individual who becomes a resident

1 or loses the status of a resident [ENTERS OR LEAVES THE STATE] during the
2 taxable year [AND WHO HAS RESIDED OR WAS DOMICILED IN THE STATE
3 FOR A PERIOD OF LESS THAN 12 MONTHS DURING THE TAXABLE YEAR];

4 (9) [(8)] "person" means an individual, a trust, an [OR] estate, a [OR]
5 partnership, or a corporation;

6 (10) "resident" has the meaning given to the term "state resident"
7 in AS 43.23.095;

8 (11) [(9)] "taxable year" means the calendar year or the fiscal year
9 ending during the calendar year upon the basis of which the net income is computed
10 under this chapter; "taxable year" includes, in the case of a return made for a fractional
11 part of a year under this chapter, the period for which the return is made;

12 (12) [(10)] "taxpayer" means a person subject to a tax imposed by this
13 chapter;

14 (13) [(11)] "trade or business" includes the engaging in or carrying on
15 of a trade, business, profession, vocation, employment, and rendition of services or
16 commercial activity and includes the performance of the function of a public office.

17 * Sec. 13. AS 43.05.085; AS 43.20.012, 43.20.013, and AS 47.45.120(a) are repealed.

HB

17

Alaska State Legislature



Representative Jim Whitaker
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SPONSOR STATEMENT

HB17 Capital Projects Fund Economic Growth and Infrastructure Development

Alaska's infrastructure needs are significant, and the economy of the State is not growing, but rather, declining faster than that of any other state in the union. House Bill 17 will improve Alaska's infrastructure through increased capital appropriations and boost Alaska's economy through a direct supplement to the dividend. Further, Article IX Section 16 of the Alaska State Constitution directs that 1/3 of appropriations from the General Fund shall be reserved for capital expenditures. The legislature has never upheld this constitutional requirement, nor has the legislature challenged the Attorney General's opinion, which nullified this constitutional mandate.

HB 17 is a first step toward correcting this situation by allocating the realized earnings from the Earnings Reserve Account (approximately \$320 million projected fiscal year 2002). A separate fund entitled the "Capital Projects Fund" will be established with 50% of that total, which will pay for infrastructure development throughout Alaska; subject to appropriation, by the legislature. The remaining 50% will be allocated as a "one-time" supplement to the Permanent Fund Dividend payment (approximately \$260 per PFD check) or as an amended option, a municipal dividend of an equal amount.

Funds allocated from the Capital Projects Fund will be worth considerably more, given federal matching dollars. A conservative estimate for federal matches raises the amount available for capital projects to \$700 million. Also, both the supplement to the dividend, and the municipal dividend have an economic growth multiple factor of 1.75 and 2.5 respectively, thereby increasing the size of the State's economy by more than \$400 million. All in all, these actions represent an increase of over \$1 billion to our State's economy at a time of significant need.

Alaska has amazing financial resources, \$32 billion in cash. No state and few nations have a treasury to compare. Given this financial basis, we should not have a failing economy and a poorly maintained infrastructure. HB 17 begins to use our resources to build our state and our economy.

FISCAL NOTE

**STATE OF ALASKA
2001 LEGISLATIVE SESSION**

Fiscal Note Number: _____
 Bill Version: HB 17
 () Publish Date: _____

Revision Date/Time (Note if correction): 4/6/01 10:00 AM Dept. Affected: Revenue
 Title: Capital Projects / Distribution of BRU: Permanent Fund Corp.
Permanent Fund Income Component: Permanent Fund Corp.
 Sponsor: Representative Whitaker
 Requester: House State Affairs Component Number: 109

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 ()						
-------------------------------	--	--	--	--	--	--

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	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

The proposed legislation would not increase the cost of operations for the Alaska Permanent Fund Corporation.

See the attached schedule for the amount estimated to be available for the Capital Projects Fund authorized by this legislation.

Prepared by: Robert D. Storer, Executive Director Phone (907)465-2047
 Division Alaska Permanent Fund Corporation Date/Time April 9, 2001, 9 a.m.
 Approved by: Larry Persily, Deputy Commissioner Date 4/9/01 12:00 AM
 Agency Department of Revenue

For distribution information, call the Governor's Legislative Office



Analysis of HB 17 Alaska Permanent Fund Corporation

*Based on December 2000 APFC Financial Projections
(\$ in millions)*

	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	TOTALS
Payout per HB 17	1,587	1,166	1,118	1,087	1,101	1,186	1,244	1,306	1,371	1,438	1,507	14,112
Capital Projects	212	0	0	0	0	0	0	0	0	0	0	212
Distribution for PFD Fund	1,375	1,166	1,118	1,087	1,101	1,186	1,244	1,306	1,371	1,438	1,507	13,900
Payout Status Quo (all PFD Fund)	1,164	1,168	1,124	1,097	1,116	1,205	1,265	1,329	1,396	1,464	1,535	13,862
Difference in annual payout. (HB 17 - Status Quo)	423	-2	-6	-10	-14	-19	-21	-23	-25	-26	-27	250
Retain for Inflation - HB 17	687	695	727	759	792	825	858	893	928	964	1001	9,128
Retain for Inflation - Status Quo	687	695	727	759	792	825	858	893	928	964	1,001	9,128
AK Permanent Fund value in 2011 - HB 17											41,768	
Principal											31,796	
Earnings Reserve											9,971	
AK Permanent Fund value in 2011 - Status Quo											42,476	
Principal											31,796	
Earnings Reserve											10,680	
Per Person Dividend HB 17	\$2,290.00	\$1,910.00	\$1,810.00	\$1,740.00	\$1,740.00	\$1,860.00	\$1,930.00	\$2,000.00	\$2,080.00	\$2,160.00	\$2,240.00	\$21,760.00
Per Person Dividend Status Quo	\$1,930.00	\$1,910.00	\$1,820.00	\$1,750.00	\$1,760.00	\$1,830.00	\$1,960.00	\$2,040.00	\$2,120.00	\$2,200.00	\$2,280.00	\$21,660.00

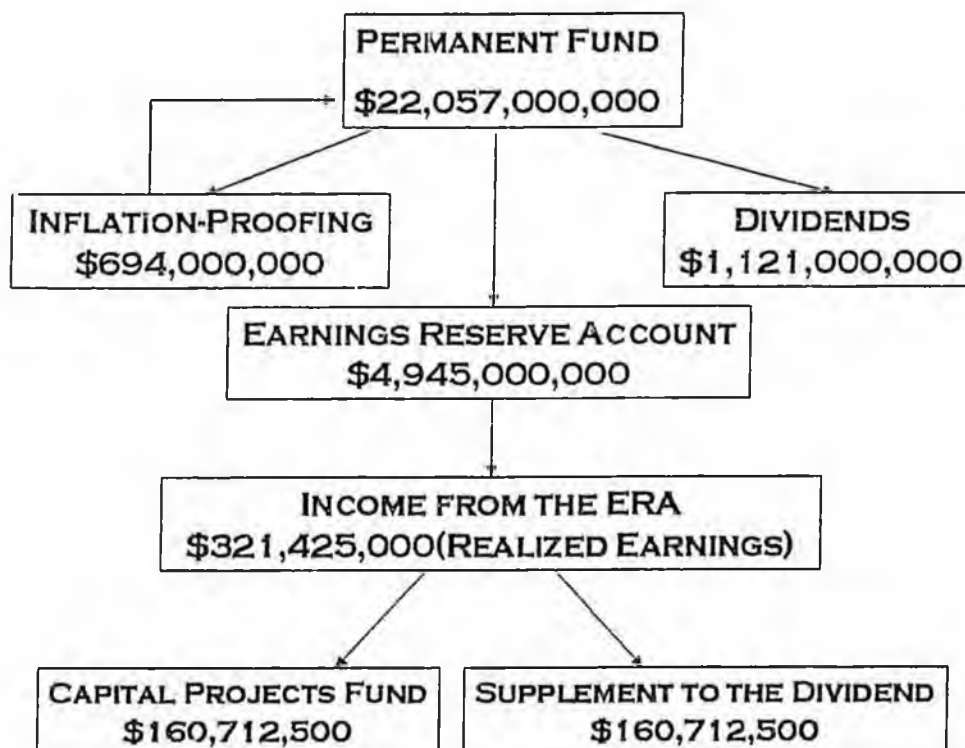
These projections represent only our best estimate of the median case rate of return; actual annual performance will vary with market volatility. Distributions shown for the Capital Projects and PFD Fund are calculated and booked as payables at fiscal year end and actually paid out the following fiscal year. Slight differences due to rounding.

Alaska State Constitution
Article IX, Section 16 - Appropriation Limit.

Except for appropriations for Alaska permanent fund dividends, appropriations of revenue bond proceeds, appropriations required to pay the principal and interest on general obligation bonds, and appropriations of money received from a non-State source in trust for a specific purpose, including revenues of a public enterprise or public corporation of the State that issues revenue bonds, appropriations from the treasury made for a fiscal year shall not exceed \$2,500,000,000 by more than the cumulative change, derived from federal indices as prescribed by law, in population and inflation since July 1, 1981. **Within this limit, at least one-third shall be reserved for capital projects and loan appropriations.** The legislature may exceed this limit in bills for appropriations to the Alaska permanent fund and in bills for appropriations for capital projects, whether of bond proceeds or otherwise, if each bill is approved by the governor, or passed by affirmative vote of three-fourths of the membership of the legislature over a veto or item veto, or becomes law without signature, and is also approved by the voters as prescribed by law. Each bill for appropriations for capital projects in excess of the limit shall be confined to capital projects of the same type, and the voters shall, as provided by law, be informed of the cost of operations and maintenance of the capital projects. No other appropriation in excess of this limit may be made except to meet a state of disaster declared by the governor as prescribed by law. The governor shall cause any unexpended and unappropriated balance to be invested so as to yield competitive market rates to the treasury.

House Bill 17—"Capital Projects Fund"

Summary: HB17 would allocate the realized earnings from the Earnings Reserve Account (approximately \$320 million projected fiscal year 2002). The amount equal to 50% would be used to establish a fund entitled the "Capital Projects Fund", which would be intended to fund infrastructure development throughout Alaska, subject to appropriation by the legislature. The remaining 50% would be allocated as a "one-time" supplement to the Permanent Fund Dividend payment. (approximately \$260 per PFD check).



Why Do this? Alaska's infrastructure needs are significant, and the economy of the State is not growing but rather declining faster than any other state in the union. House Bill 17 would improve Alaska's infrastructure through increased capital appropriations and give a boost to the economy through a direct supplement to the dividend. Further, Article 9 section 16 of the Alaska State Constitution directs that at least 1/3 of the appropriations from the General Fund shall be reserved for capital projects and loan appropriations. The legislature has never upheld this portion of the constitution from the time it was adopted.

Another Option: One option as opposed to the supplement to the dividend check, would be a municipal dividend that would be allocated to each municipality on a per capita basis. This money could then be used by the municipalities to garner federal matching funds, thereby increasing infrastructure funding even more, and growing their economy.

Money Begets Money: The money allocated from the Capital Projects Fund will be worth considerably more, once Federal Matching dollars are taken into consideration. A conservative estimate for federal matching funds raises the money available for capital projects to \$700 million. Both the Supplement to the Dividend, and the Municipal Dividend would have an economic multiplier of between 1.725 and 2.5, thereby increasing the economy by more than \$400 million. All in all, these options represent an increase of over \$1 billion to the economy.

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LEGISLATIVE RESEARCH REPORT

DECEMBER 21, 2000



REPORT 01.040 (REVISED)

CONSTITUTIONAL SPENDING LIMIT AND THE CAPITAL BUDGET

PREPARED BY MARIA GLADZISZEWSKI, MANAGER

You asked whether the legislature has complied with the requirement under Article IX, Section 16 of the Alaska Constitution that one-third of appropriations be expended for capital projects and loan appropriations. You also requested that we provide data on capital and operating expenditures over the last ten years.

In part, Article IX Section 16 of the Alaska Constitution states the following:

Except for appropriations for Alaska permanent fund dividends, appropriations of revenue bond proceeds, appropriations required to pay the principal and interest on general obligation bonds, and appropriations of money received from a non-State source in trust for a specific purpose, including revenues of a public enterprise or public corporation of the State that issues revenue bonds, appropriations from the treasury made for a fiscal year shall not exceed \$2,500,000,000 by more than the cumulative change, derived from federal indices as prescribed by law, in population and inflation since July 1, 1981. Within this limit, at least one-third shall be reserved for capital projects and loan appropriations.

According to a 1983 opinion of the attorney general, the one-third appropriation allocation reserved for capital projects and loan appropriations may be disregarded when economic conditions impose a total appropriation limit which is more restrictive than that set out in this section. The attorney general explains his reasoning as follows:

Section 16 provides, in part: "Within this limit, at least one-third shall be reserved for capital projects and loan appropriations." This wording is ambiguous when applied for a year in which revenue available for appropriations falls short of the adjusted limit for that year. Under those circumstances, it is not clear whether the reservation for capital projects and loan appropriations is calculated based on the total amount actually appropriated for that fiscal year (i.e., less than the limit) or on the limit amount (\$2.5 billion) for that fiscal year adjusted for population and inflation. . . .

A review of the FCC [Free Conference Committee] transcript reveals no discussion of the intention of the drafters when they used the phrase "within this limit." Revenue projections at the time painted a rosy picture for the future. No history is available to indicate that the FCC even considered the effect of the

amendment if the state suffers a sharp decline in revenue. Former Governor Hammond was clearly concerned by the possibility of a spendthrift legislature with an overflowing treasury at its disposal.

. . . [W]e believe that the courts will recognize that the evil which the appropriation limit was designed to remedy does not exist when revenues are below the limit. Under those circumstances, a court would probably affirm an interpretation that restores the full lawmaking powers of the legislature to make appropriations in the best interests of the state. We believe the best way to resolve the ambiguity is to disregard the one-third allocation reserved for capital projects and loan appropriations when economic conditions impose a limit which is more restrictive than that set out in section 16.4.¹

As far as we could determine, the attorney general's recommendation has been followed to date; during the last fifteen years, lawmakers have not attempted to appropriate one-third of the budget to capital projects. The enacted capital budget and the authorized operating budget figures, as well as annual estimates of the constitutional appropriation limit, are listed below.

Fiscal Year	Thousands of Dollars (a)			Percent of Total		Article IX, Section 16 Limit (b)- (billions)
	Capital Expenditures (Enacted)	Operating Expenditures (Authorized)	TOTAL Operating and Capital	Capital Budget	Operating Budget	
1990	343,507.5	2,942,959.8	3,286,467.3	10%	90%	4.4
1991	416,283.8	3,071,758.6	3,488,042.4	12%	88%	4.5
1992	686,147.2	3,453,699.2	4,139,846.4	17%	83%	6.0
1993	704,179.6	3,535,970.7	4,240,150.3	17%	83%	4.8
1994	951,739.8	3,730,403.4	4,682,143.2	20%	80%	4.9
1995	663,936.9	3,768,509.3	4,432,446.2	15%	85%	4.9
1996	579,598.9	3,818,784.6	4,398,383.5	13%	87%	4.9
1997	640,738.6	3,835,956.2	4,476,694.8	14%	86%	5.9
1998	615,717.5	3,877,539.5	4,493,257.0	14%	86%	5.7
1999	1,207,692.6	4,025,424.9	5,233,117.5	23%	77%	5.9
2000	1,136,364.8	4,253,981.3	5,390,346.1	21%	79%	6.1

NOTES & SOURCES: (a) Figures from the operating and capital budget books published by the Legislative Finance Division, FY90-00.
 (b) Constitutional appropriation limit estimates from the introductory section to the State of Alaska's *Comprehensive Annual Financial Report* published by the Department of Administration, Division of Finance (years ending June 30, 1989 through June 30, 1999). The FY94 book did not contain an estimate for FY95; the FY95 figure presented above is our estimate.

I hope you find this information useful. Please do not hesitate to contact us if you have questions or need additional information.

¹ Opinion of the Attorney General, February 7, 1983, File Number 83-374-83 (a memorandum from Attorney General Norman Gorsuch and Assistant Attorney General James Baldwin to budget director Gene Dusek).

LEGAL SERVICES

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MEMORANDUM

December 19, 2000

SUBJECT: Sec. 16, Art. IX, Alaska Constitution
(Work Order No. 22-LS0272)

TO: Representative Jim Whitaker
Attn: Lori Backes

FROM: Tamara Brandt Cook
Director

You have asked for our interpretation of the language of sec. 16, Art. IX, Constitution of Alaska, that requires that one-third of the permissible appropriations be reserved for capital projects and loan appropriations. Section 16, Art. IX, of the state constitution provides in part (emphasis added):

Except for appropriations for Alaska permanent fund dividends, appropriations of revenue bond proceeds, appropriations required to pay the principal and interest on general obligation bonds, and appropriations of money received from a non-State source in trust for a specific purpose, including revenues of a public enterprise or public corporation of the State that issues revenue bonds, appropriations from the treasury made for a fiscal year shall not exceed \$2,500,000,000 by more than the cumulative change, derived from federal indices as prescribed by law, in population and inflation since July 1, 1981. Within this limit, at least one-third shall be reserved for capital projects and loan appropriations.

This provision has not been interpreted by a court, but has been the subject of an attorney general's opinion, 1983 Op. No. 01, copy attached. The opinion notes that the language is ambiguous and concludes that the reservation of one-third for capital projects and loans does not apply when revenues are less than the constitutional appropriation limit, because to apply it in those circumstances would severely impair the legislature's power of appropriation. The opinion goes on to suggest that the court will disregard the literal language of the constitution to avoid absurd results or to achieve a pragmatic result. (See pages 17 and 18)

I do not believe that the court will disregard the literal language of the constitution. (Hickel v. Halford, 872 P.2d 171 (Alaska 1994)) However, because of the use of the phrase "Within this limit...", it seems to me that it is possible to come up with at least the

following three interpretations of the provision in question without disregarding the language used. Regardless of the amount of total appropriations for a year, excluding appropriations to which the limit does not apply,

(1) at least one-third of the maximum amount authorized under the spending limit must be for capital projects and loans;

(2) no more than two-thirds of the maximum amount authorized under the spending limit may be for operating expenses; or

(3) at least one-third of the total appropriated must be for capital projects and loans.

While there will be debate about how the authorized level under the spending limit should be calculated, the effect of each of the three possibilities can be demonstrated by using the fiscal year 2000 estimated spending limit of \$6.1 billion and the actual budget amount of \$2.3 billion, both figures taken from the "State of Alaska Comprehensive Annual Financial Report."

Under paragraph (1), one third of \$6.1 billion would require a capital budget of over 2 billion from a total budget of just \$2.3 billion. Clearly, devoting so much of the total budget to capital projects and loans would make it impossible to carry out other functions that are required of the state by the constitution. It is safe to predict that a court would reject the construction set out in paragraph (1).

Paragraph (2) amounts to a sort of mirror image of paragraph (1), calculating the maximum level of operating expenditures rather than capital expenditures. Two-thirds of \$6.1 billion would permit operating expenditures of over \$4 billion, well over the total budget of \$2.3 billion, thus eliminating any required level of capital spending. This construction would support the position taken by the attorney general that the one-third reservation does not apply when available revenue falls short of the adjusted spending limit for that year. The weakness in this interpretation is that it yields an odd result in that it requires the reservation of an amount for capital and loan expenditures if the state has \$6.1 billion available in fiscal year 2000 but not if it has \$6 billion available, even though \$2.3 billion is the actual amount appropriated. What public policy is served by this result?

Paragraph (3) would simply require that, out of a total budget of \$2.3 billion, one-third, or about \$.8 billion, be spent for capital projects and loans. It is possible that a court would accept this construction because it is the simplest and, in some ways, most logical. However, the objection to this construction is that it could have been stated directly, if that was what was meant, without including the phrase, "Within this limit..."

On reflection, my feeling is that the purpose behind the one-third reservation was to ensure a certain level of capital spending and, therefore, that the construction contained in paragraph (3) is the most persuasive. However, a reasonably strong argument can be made for the position taken by the attorney general that the one-third reservation does not apply when available revenue falls short of the adjusted spending limit for that year. As a

Representative Jim Whitaker

December 19, 2000

Page 3

factual matter, the state has since 1983 consistently failed to reserve one-third of appropriations each year for capital projects and loans. The court may give deference to the position taken by the attorney general because of this history. The reason for this is that ambiguous constitutional provisions are interpreted under the same basic rules of interpretation used for statutory construction, and Alaska has adopted the "contemporaneous and practical" rule of interpretation. (Casperson v. Alaska Teachers' Retirement Board, 664 P.2d 583 (Alaska 1983); Sutherland, Statutory Construction, sec. 49.03. This rule states that continuous "contemporaneous and practical interpretation...by executive officers charged with its administration and enforcement...constitutes an invaluable aid in determining the meaning of a doubtful statute...[and] also constitutions."

TBC:glc

00-322.glc

Enclosure

Bill Sheffield, Governor

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

February 7, 1983

Gene Dusek, Director of Budget
Office of Management & Budget
Pouch AM
Juneau, AK 99811

1983 Atty Gen Co #01

Re: Appropriation Limit
questions
Our file: 366-374-83

Dear Mr. Dusek:

You have asked for our opinion concerning issues relating to the appropriation limit imposed by Alaska Constitution, article IX, section 16. These issues are as follows:

(1) Are appropriations to reimburse a municipality for payment of the principal and interest on general obligation school construction bonds subject to the appropriation limit? We believe they are not.

(2) If the permanent fund dividend law (AS 43.23) is amended or repealed and another plan for the distribution of permanent fund income is enacted, will appropriations to finance the new distribution program be included in the appropriation limit or will those appropriations be outside the limit? Generally, we believe that other distribution plans could qualify as dividends. However, certain limitations should be observed to make sure that the new plan satisfies the intent of the appropriation limit.

(3) How will the appropriation limit be implemented if

anticipated state revenues are less than the limit for a fiscal year? We assume that the appropriation limit will be applied with common sense to empower the legislature to act without regard to allocations imposed by the appropriation limit when economic conditions deplete the state treasury.

(4) How will multi-year appropriations be counted for purposes of the appropriation limit? We believe a multi-year appropriation will be counted against the appropriation limit for the first year in which it could be expended.

(5) What is the definition of "capital project" as that term is used in the appropriation limit? There is some history which supports a liberal interpretation of the term "capital project."

I. BACKGROUND

The appropriation limit, Alaska Const. art. IX, sec. 16, was drafted during a period of anticipated high revenue yields from oil and gas production. In June 1981, the Alaska Department of Revenue forecast that the state would earn approximately \$4,895,300,000 during FY 82. Revenue Sources, Alaska Department of Revenue (June 1981). That forecast did not include the revenue dedicated to the Alaska permanent fund under AS 37.-13.010. The revenue actually earned by the state during FY 82, less the permanent fund contribution, was \$4,108,400,000. Reve-

Revenue Sources, Alaska Department of Revenue (Jan. 1983). The legislature had exhibited a proclivity for appropriating all available revenue and more. 1/ Former Governor Jay S. Hammond introduced SJR 4 during the first session of the Twelfth Alaska Legislature. However, the legislature failed to enact a version of SJR 4 during the first regular session and on June 25, 1981, Governor Hammond called a special session of the legislature to consider SJR 4. In his address to the legislature, Governor Hammond cited the following circumstances which required the enactment of SJR 4:

- (1) the FY 82 operating budget increased 32 percent over the FY 81 operating budget;
- (2) the FY 82 capital budget increased 127 percent over the FY 81 capital budget; and,
- (3) for FY 82, the legislature appropriated an amount equal to 59 percent of the total spent for capital projects since statehood. 1981 S. Jour., FSS Jour. Supp. No. 1, p. 3.

A second free conference committee (FCC) initially appointed during the regular session met to continue consideration of SJR 4 during the special session. 1981 S. Jour., p. 1744. A

1/ The \$1.8 billion contribution to the Alaska permanent fund (sec. 2, ch. 61, SLA 1981 as amended by sec. 68, ch. 92, SLA 1981 and sec. 16, ch. 101, SLA 1982) is a continuing operating appropriation which literally causes total unobligated appropriations to exceed available state revenues for each fiscal year since enactment.

transcript of the open meetings of the FCC exists and forms a part of the history of the appropriation amendment (the transcript). However, it is evident from review of the transcript that other discussions concerning the intent of the amendment were conducted outside of open committee meetings. While the transcript is helpful, it presents only a partial record of the deliberations of the drafters of the amendment.

The FCC purported to adopt a letter of intent to accompany its report to the house and senate. 1981 S. Jour., FSS, p. 5. However, the letter of intent is not set out in the journal. A search of the bill files of the Department of Law yielded a copy of the missing letter of intent. See Ex. 1.

The campaigns for and against adoption of the appropriation limit began in September of 1982. The Anchorage Daily News criticized the proposed amendment for the following reasons:

(1) the ceiling is too high, revenues will exceed the limit only once before the year 2000; and

(2) the one-third reservation for capital projects and loan appropriations was included because the legislature "failed to make the distinction between a wise public agenda -- on which capital projects and loans surely would appear -- and an effectively timeless state constitution -- in which no such spending demands should be dictated.

Anchorage Daily News, Sept. 3, 1982, at A14, "opinion." The

Daily News based its opinion concerning revenue forecasts on a report made public by the legislative finance division of the Legislative Budget and Audit Committee. Anchorage Daily News, Sept. 2, 1982, at 1. On September 17, 1982, the Daily News urged Governor Hammond to oppose the adoption of the appropriation limit. The Anchorage Times basically took no position on the amendment. However, on October 19, 1982, the Times reported the results of a poll sponsored by supporters of the amendment. The poll, conducted the week of September 16-23, 1982, showed that the amendment was recognized and favored by the public as a "spending limit." The pollsters asked if the respondents had heard of the proposed amendment to the state constitution which sets a limit on increases on state appropriations. By a three-to-one margin, respondents said they were not familiar with the amendment when it was described as an "appropriation limit." Anchorage Times, Oct. 19, 1982, at A-4. On October 26, 1982, the Juneau Empire editorialized in favor of adoption of the amendment. Juneau Empire, Oct. 26, 1982, at 4.

During the week of October 24, 1982, the major dailies of the state published articles on the amendment. Governor Hammond received coverage in most of those stories by saying "It [the adoption of the appropriation limit] may be our last chance to control the juggernaut which otherwise will likely crush us into bankruptcy." Anchorage Daily News, Oct. 29, 1982, at B3.

On Sunday, October 31, 1982, the Daily News in its forum section, published an article by Governor Hammond in which he again strongly advocated adoption of the amendment because revenue projections and the growing vulnerability of the permanent fund compelled him to plead for the support of the people. Anchorage Daily News, Oct. 31, 1982, at K3. On the preceding Friday, the Daily News quoted Governor Hammond as follows: "Don't let anyone tell you that passage of Proposition 4 won't limit spending." Under recently revised revenue estimates, passage of the ballot issue would bar the legislature from appropriating between \$80 million and \$380 million in fiscal 1984 alone. Anchorage Daily News, Oct. 29, 1982, at B3.

At the 1982 general election, the voters approved the adoption of SJR 4 by a vote of 110,669 for the amendment and 70,831 opposed to the amendment. State of Alaska Official Returns by Election Precinct General Election Nov. 2, 1982, Div. of Elections, Office of the Governor.

II. EXCEPTIONS FROM THE LIMIT

The appropriation limit contains seven express exceptions. Five of those exceptions are for appropriations which are completely outside the limit and do not require voter approval. They include:

- (1) an appropriation for Alaska permanent fund divi-

dends;

- (2) an appropriation of revenue bond proceeds;
- (3) an appropriation to pay principal and interest on general obligation bonds;
- (4) an appropriation of money received from nonstate sources in trust for a specific purpose, including revenues of a public corporation that issues revenue bonds; and
- (5) an appropriation to meet a state of disaster declared by the governor.

You have requested our interpretation of exceptions (1) and (3) set out above.

A. Alaska Permanent Fund Dividend Exception

The appropriation limit provides: "Except for appropriations for Alaska permanent fund dividends ... appropriations from the state treasury made for a fiscal year shall not exceed \$2,500,000,000...." A question obviously arises as to whether "Alaska permanent fund dividends" means only those cash payments provided to individuals under AS 43.23 or if the word "dividend" encompasses other concepts for the distribution of income earned by the Alaska permanent fund.

We believe the answer to your question concerning appropriations for permanent fund dividends depends on whether the exceptions will be construed strictly or liberally. Usually,

provisions in a state constitution are construed liberally using the same rules of construction prescribed for other laws with regard given to the broader object and scope of the constitution as a charter of popular government. Eghert v. Dunseith, 24 N.W.2d 907 (N.D. 1946); 168 A.L.R. 621. Professor Sutherland explains the modern view for construing express exceptions as follows:

The older rule strictly interpreted both exceptions and provisos but today the prevailing view favors determining the effects of such provisions according to the usual criteria of decision applicable to other kinds of provisions as well without the use of any artificial presumptions to the effect that qualifying language should be strictly construed.

SUTHERLAND STATUTORY CONSTRUCTION § 47.11 (4th ed. 1974) (footnotes omitted). The FCC did not express an intent to limit this exception to only appropriations to finance cash payments to individuals under AS 43.23.

The appropriation limit must be interpreted consistently with the permanent fund amendment contained in article IX, section 15. Section 15 provides that the legislature may dispose of the income of the Alaska permanent fund "as provided by law." Each legislature may reexamine existing law and enact different laws providing for the use of income earned by the Alaska permanent fund. If section 16 were interpreted so that the exception to permanent fund dividends applied only to appropriations to finance cash dividends under AS 43.23, the legislature would essentially be denied the flexibility to adjust to changing philoso-

phias concerning the propriety of ~~making~~ cash payments directly to residents which section 15 expressly reserves to it. 2/ In interpreting and applying the constitution, it must be remembered that the constitution is not a lifeless or static instrument whose interpretation is confined to conditions and outlooks which prevailed at the time of its adoption. Yakus v. United States, 321 U.S. 414 (1944); Warwick v. State, 548 P.2d 384 (Alaska 1976).

The word "dividend" has no precise legal meaning. Trustees of University v. North Carolina R. Co., 13 WORDS AND PHRASES 107 (Permanent ed.); 22 Am. Rep. 671. Webster defines "dividend" as follows: "an individual share of something distributed among a number of recipients." We are not aware of any legal principle which would preclude the characterization of other distribution programs as "dividends." Rather, the words used

2/ The Thirteenth Legislature may ~~direct~~ direct cash distribution in favor of a plan which it determines will promote public purposes more effectively. During the period of consideration and adoption of the appropriation limit ~~the~~ permanent fund dividend law was undergoing considerable ~~change~~ change by both the legislature and the courts. The legislature adopted the proposed appropriation limit amendment ~~on~~ July 15, 1981. At that time the question of the constitutionality of the permanent fund dividend program as it was then structured was on appeal to the United States Supreme Court. On June 15, 1982, the United States Supreme Court issued an opinion which found the method established for determining the amount of dividends under that program void because the method promoted discrimination based on length of residence in the state. On August 15, 1982, amendments to the dividend law took effect. The people were undoubtedly aware that the dividend law in effect on election day in 1982 was not chiseled in marble.

by the drafters of the amendment afford broad latitude to the legislature to enact new distribution programs which will not be impaired by the appropriation limit.

It is well-settled law that a provision of a state's constitution must receive a liberal, practical construction to meet changed conditions and growing needs of the people. County of Alameda v. Sweeney, 312 P.2d 419, 424 (Cal. 1957). Under the permanent fund amendment, the discretion granted to the legislature to enact, amend, or repeal the present dividend program under AS 43.23 to meet the growing needs of the people is unfettered. However, the operation of exceptions from the appropriation limit must be interpreted consistent with the intent of the framers of the organic law and of the people adopting it. State v. Lewis, 559 P.2d 630, 637 (Alaska 1977).

One important consideration should be carefully observed. The Alaska Supreme Court has found that the purpose of the existing dividend program is to force the legislature to consider the reimposition of taxes when the decline of oil revenue encourages resort to permanent fund income to finance state government. Williams v. Zobel, 619 P.2d 448, 454 (Alaska 1981), rev'd 451 U.S. 905 (1982). The people can be expected to vigilantly protect their dividends by forcing the legislature to seek sources other than the permanent fund to finance state government. If a substitute distribution program accomplishes the same

purpose, it will more likely qualify under the exception in section 16 than if it fails to achieve that purpose. If the constituency benefitted by a dividend is narrow, the dividend may not be a dividend in the sense intended by the drafters of section 16 and the people who adopted it. Proposals soon to be considered by the legislature include replacing the existing distribution to all residents with a distribution of part of the permanent fund income to municipalities and as a substitute for the existing longevity bonus, and use of a part of the income to finance large capital projects.

A vast majority of the population of the state resides in or is served by municipal governments. It is also a fact that we all seek security for our "golden years." The constituents of these proposals seem broad enough to satisfy the purpose of the current dividend law. The use of permanent fund income to finance large capital projects presents a closer question. The character of each project must be considered to determine if it serves a state public purpose, rather than a local special purpose. Additionally, if the project is viewed as merely an alternate way of financing state government operations, the basic intent of the dividend law might not be served.

We cannot advise with certainty whether the financing of large capital projects with permanent fund income would constitute a dividend of the Alaska permanent fund for purposes of

the appropriation limit. Some may argue that the benefits provided by "public works" projects are too localized to approximate the benefits provided by the existing dividend law. However, in State v. Lewis, 559 P.2d 630 (Alaska 1977), the Alaska Supreme Court decided that "[l]egislation need not operate evenly in all parts of the state to avoid being classified as local or special." Lewis at 643. A definite answer will come only when the courts interpret article IX, section 16 of the Alaska Constitution. However, we believe that if the legislature enacts a distribution program which is consistent with the intent of the permanent fund dividend law, any appropriation to implement that program will be exempt from the appropriation limit.

B. Appropriations Required to Pay the Principal and Interest on General Obligation Bonds

Under AS 43.18.100 -- 43.18.135 the state, subject to available appropriations, reimburses municipalities for the payment of a percentage of principal and interest to retire general obligation bonds issued by the municipality to finance school construction costs. Although they have been amended from time to time, these statutes have been in effect since 1971. You have asked whether appropriations to retire municipal general obligation debt are within the exception stated to the appropriation limit.

The exception reads as follows: "Except for ... appro-

priations required to pay the principal and interest on general obligation bonds...." The wording of the exception does not specify whether the bonds must be issued by the state to qualify. Later in section 16, the drafters carefully identified "appropriations of money received from a nonstate source...." Since the drafters could easily have expressly limited this exception to state general obligation bonds, an implication can be drawn that a strict construction limiting the exception to state general obligation bonds was not intended.

The purpose of the exception recognizes that appropriations to retire general obligation bonds may be to the state's "great advantage." Governor's transmittal letter, 1981 FSS S. Jour., p. 16. Presumably the advantage accrues from the state's enhanced credit rating which results in lower debt service charges for subsequent bond issues. It is probable that the existence of the school construction debt assistance provisions of AS 43.18 have the same effect upon the bond rating assigned to municipalities. The identical purpose is achieved by appropriations made to finance the reimbursement program. Less state assistance will be necessary in the future if local bond ratings remain favorable.

There are some considerations which weigh against this construction. Debt service for general obligation bonds is financed by a continuing appropriation. AS 37.15.012. General

obligation bonds are debts of the state secured by contracts (trust indentures); the impairment of contracts is prohibited by the state and federal constitutions. The reimbursement program under AS 43.18 does not transform municipal general obligation bonds into debts of the state. AS 43.18.130(a). However, the financial burden imposed on municipalities, if their local tax effort were increased to compensate for the loss of assistance under AS 43.18, could be devastating to the local taxpayer. According to the Department of Education, for fiscal year 1984 the estimated total entitlement for school debt retirement is \$36,900,000. This total is estimated to increase to \$44,300,000 by fiscal year 1988.

Accordingly, we believe that appropriations to retire municipal general obligation school bond indebtedness under AS 43.18 are "required" and qualify as an exception to the spending limit. We believe that the appropriation for school bond indebtedness can be represented as a moral obligation of the state for the following reasons:

- (1) the appropriation is made under a statute of general application;
- (2) the statute has been in effect since 1971; and
- (3) the reimbursement program is heavily relied upon by municipalities when they establish the local tax effort necessary to support local bonded indebtedness.

III. REVENUE SHORTFALL

You have also asked how to interpret the appropriation limit if the amount of state revenues subject to the limit is less than the amount determined to be the limit for a fiscal year, as provided in section 16. You wish to know specifically how the allocations within the limit for operating expenses and capital projects would be interpreted. As we have indicated, section 16 imposes an appropriation limit rather than a spending limit. We have earlier advised that the legislature may make appropriations which exceed available revenues. 1981 Inf. Op. Att'y Gen. (June 24; J77-159-81). However, obligations may not be paid under those appropriations unless there is enough surplus money available in the treasury.

Theoretically, the amount of anticipated state revenue should have no effect on the operation of the appropriation limit. However, under AS 37.07.020(c), the governor's proposed budget may not exceed estimated revenues for the succeeding fiscal year. Also, the amount of surplus revenues anticipated to be received by the state was an issue hotly publicly debated before adoption of section 16. The newspaper articles written about the appropriation limit before the election commonly referred to the amendment as a "spending limit." These articles were undoubtedly instrumental in forming the voters' understanding of the effect of the proposed amendment.

Section 16 provides, in part: "Within this limit, at least one-third shall be reserved for capital projects and loan appropriations." This wording is ambiguous when applied for a year in which revenue available for appropriations falls short of the adjusted limit for that year. Under those circumstances, it is not clear whether the reservation for capital projects and loan appropriations is calculated based on the total amount actually appropriated for that fiscal year (i.e., less than the limit) or on the limit amount (\$2.5 billion) for that fiscal year adjusted for population and inflation. Apparent ambiguities contained in the state constitution may be resolved by the contemporaneous construction by law or by the administrative agency charged with implementation of the provision. Amador Valley Joint Union High School District v. State Board of Equalization, 583 P.2d 1281 (Cal. 1978).

A review of the FCC transcript reveals no discussion of the intention of the drafters when they used the phrase "within this limit." Revenue projections at the time painted a rosy picture for the future. No history is available to indicate that the FCC even considered the effect of the amendment if the state suffers a sharp decline in revenue. Former Governor Hammond was clearly concerned by the possibility of a spendthrift legislature with an overflowing treasury at its disposal.

Under the circumstances, we believe it would be unwise

to blindly apply the allocations imposed by the appropriation limit when conditions impose an even more stringent limit than intended by the FCC. 3/ The appropriation limit drastically alters the most significant power of the legislature: the power to appropriate. The power to enact general law is largely nullified unless the money to finance enforcement or implementation of the law is appropriated. Consequently, we believe that an interpretation which restricts the legislature's power to respond to the needs of the state during unanticipated periods of revenue decline will not be endorsed by the courts. See State ex rel. Columbus v. Ketterer, 189 N.E. 252 (Ohio 1934). Rather, we believe that the courts will recognize that the evil which the appropriation limit was designed to remedy does not exist when revenues are below the limit. Under those circumstances, a court would probably affirm an interpretation that restores the full lawmaking powers of the legislature to make appropriations in the best interests of the state. * We believe the best way to resolve the ambiguity is to disregard the one-third allocation reserved for

3/ The reservation for capital projects and loan appropriation effectively restricts appropriations to finance the operating budget without restricting the relative share for capital projects. The operating budget finances all manner of essential programs for the preservation of the public health, safety, and welfare. Some of these expenditures are for so-called entitlement programs (aid for families with dependent children, for example) which for fiscal year 1982 comprised 42 percent of the operating budget.

capital projects and loan appropriations when economic conditions impose a limit which is more restrictive than that set out in section 16. 4/ The literal language of the constitution may be disregarded to avoid absurd results and to fulfill the apparent intent of the framers.* Sturzes v. Crowninshield, 17 U.S. 122, 202 (1819). Where the general welfare is involved, constitutional questions should be approached from the pragmatic, rather than from a legalistic point of view. State v. Board of Administration, 25 So. 2d 880 (Fla. 1946).

IV. ATTRIBUTION OF CAPITAL APPROPRIATION TO A FISCAL YEAR

Another question you have raised is how the words "appropriation ... made for a fiscal year" should be applied to appropriations for capital projects. AS 37.25.020 provides "An appropriation made for a capital project is valid for the life of the project and the unexpended balance shall be carried forward to subsequent fiscal years." This provision recognizes that capital projects often span more than one fiscal year before completion. The balance of the appropriation remains available in sub-

4/ Another possible interpretation would limit the operating budget allocation for a fiscal year to two-thirds of the total limit (\$2.5 billion) adjusted for inflation and population. This interpretation is consistent with our earlier observation that there may be no relationship between appropriations and revenue. However, even under this interpretation, in a fiscal year with depressed revenues, the one-third reservation for capital projects is meaningless.

sequent fiscal years and is carried forward to those succeeding fiscal years. According to the Department of Administration, as of June 30, 1982, the total of all "carry forward" capital appropriations was: approximately \$1,591,000,000, and the total of all "carry forward" operating appropriations was \$1,862,000,000.

The FCC debated the intent of the limit concerning this issue. Transcript at 47-55. It is clear that the FCC was aware that multi-year appropriations are made. There was an attempt by Representative Hugh Malone to amend the proposal so that a legislature could not appropriate for a fiscal year subsequent to the upcoming fiscal year. This amendment was not adopted. Senator Bill Ray observed that the intent of the amendment was to include only those appropriations which are expended during the fiscal year. According to Senator Ray, appropriations which remain unexpended at the end of a fiscal year should lapse. Transcript at 52. Representative Rick Halford interpreted the proposed amendment to make multi-year appropriations count against the limit each year because each succeeding legislature could amend or repeal these appropriations at will. During all of these discussions, no distinction was made between operating and capital appropriations. However, these comments probably referred only to multi-year operating appropriations. See Transcript at 65-66.

The debate on this issue discloses that the FCC was confused about the operation of carry forward appropriations.

They formulated the \$2.5 billion base by taking the fiscal year 1982 appropriation total and reducing that amount by \$60 million. Transcript at 2-5. However, 1982 appropriations were made based on forecasts of anticipated surplus for that fiscal year, reduced by expected expenditures for "carry forward" appropriations. We assume, therefore, that the drafters did not intend to count carry forward appropriations in the limit established for each fiscal year.

We believe that a commonsense way to interpret the appropriation limit, which is supported by past practice, is to count appropriations that are available for expenditure in a fiscal year only against the limit for the first fiscal year during which they could be completely expended. This should be done even if an unexpended balance is carried forward into the next fiscal year. That balance must be considered obligated for the purposes of the appropriation limit. Unexpended balances of a prior year appropriation should not be counted with the current year appropriations in complying with the limit for the current year. If the legislature provides that an appropriation may not be expended until a later fiscal year, the appropriation should be counted only against the limit for that later fiscal year.

V. DEFINITION OF THE TERM "CAPITAL PROJECT"

The appropriation limit amendment introduces the term

"capital project" to the glossary of words used in the Alaska Constitution. This new term causes some concern because a similar term, "capital improvement," is used in other sections of article IX setting out the general obligation bonding authority for local governments and the state. There are two Alaska Supreme Court cases which address the meaning of "capital improvement." See City of Juneau v. Hixon, 373 P.2d 743 (Alaska 1962); Wright v. City of Palmer, 468 P.2d 326 (Alaska 1970). The supreme court did not adopt an all-inclusive definition of capital improvement in those cases. Rather, the court concluded that there was nothing in the history of municipal bonding in Alaska or in the minutes of the constitutional convention that indicates that the term "capital improvement" was intended to denote projects radically different than those for which municipalities had been permitted to incur bonded indebtedness in the past.

When former Governor Hammond first introduced SJR 4, the proposed amendment consistently used the term "capital improvement." It was not until the second FCC took up consideration of the proposal that the term capital project was used. Senator Ray defined capital projects to be "what the definitive judgment of a majority of the legislature determines they are." Transcript at 22. This was in response to an observation by Representative Malone that many appropriations designated as capital differ little from items set out in the operating budget. Tran-

script at 21. Former assistant attorney general Rodger W. Pegues explained to the FCC that "we're using the term capital project which pretty much means the capital budget - areas where you are dealing with capital investment or long-term financing and the bulk of your spending. That's a broader term than 'capital improvement.'" "

There appears to be support in the history for an interpretation of "capital project" which includes more objects of expenditure than "capital improvement," which traditionally has been limited to public works of a permanent nature. 5/ It is possible, though, that the two terms will be construed to have the same meaning. The supreme court left room for the term "capital improvements" to acquire new meanings to accommodate the changing activities of state government. However, the appropriation limit implies that a general obligation bond may be issued for capital projects. 6/ It is probable that a court would find that not all capital improvements may be characterized as capital

5/ In recent years, opinions of the attorney general have somewhat broadened this interpretation to permit the use of bond proceeds to finance some unique activities under the Village Safe Water Act, see Inf. Op. Att'y Gen. (April 2; J-99-078-81); and to rehabilitate a leased jail facility. See Inf. Op. Att'y Gen. (Mar. 19; A66-398-78).

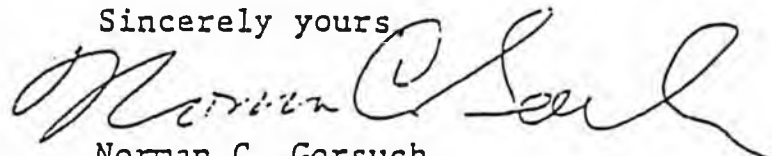
6/ Article IX, section 16 provides: "The legislature may exceed this limit in bills for appropriations to the Alaska permanent fund and in bills for appropriations in capital projects, whether of bond proceeds or otherwise, . . ." (Emphasis added.)

projects. A distinguishing factor may be that the constitution requires some permanent thing of value to show for the public debt incurred. A more liberal construction may be warranted when public debt is not incurred.

VI. CONCLUSION

The wording of the appropriation limit does not begin to live up to the high standards of clarity and simplicity adopted by the original framers of the Alaska Constitution. There are many who will regard this opinion as mere justification to exploit "loopholes" woven into the fabric of the amendment. However, we hope this opinion will provide the impetus to either adopt amendments to clarify the ambiguities noted or to enact legislation which interprets the amendment so that the ambiguities are avoided. We hope this opinion has answered your questions.

Sincerely yours



Norman C. Gorsuch
Attorney General



James L. Baldwin
Assistant Attorney General

JLB:NCG:pjg

LETTER OF INTENT

2nd Free Conference Committee on SJR 4

The basic problem faced by Alaska is runaway growth in spending for state government operations and for capital projects. This growth is generated by revenues from resources which are nonrenewable and finite. Some limitation is therefore essential. The constitutional amendment proposed by the 2nd Free Conference Committee will provide a realistic limitation and yet allow, by popular approval, for expenditures in excess of the limitation for capital projects and for contributions to the permanent fund. Those who favor such expenditures can have no reasonable objection to the voters determining which capital projects and contributions are worthwhile and which are not.

The term "capital project" is used rather than the term "capital improvement" in order to have a broader reach. Capital improvements are pretty much limited to public facilities having a more or less permanent nature. Highways, airports, buildings, and ferries are examples. Capital projects include capital improvements and also other expenditures which require a multi-year investment or otherwise tend to fall into the category of capital costs as opposed to day-to-day expenses. Computers, large-scale resources inventories, and high-cost special equipment and instruments for libraries, schools, and museums are some examples.

In addition to limiting the excess appropriations to capital projects and contributions to the permanent fund, the proposed amendment requires bills for capital projects to be confined to capital projects of the same type. This is somewhat more narrow than the single-subject rule. It will require projects in a bill to be parts of an overall system. This will inhibit the packaging of diverse projects into one bill. As a further restraint on logrolling, the bills for excess appropriations are subject to the item veto, including the appropriation of general obligation bond proceeds which are in excess of the limit. Bond proceeds which are not in excess of the limit are not subject to an item veto.

There are three exclusions from the limitation. Debt service is necessarily excluded. An additional exclusion is provided for appropriations for permanent fund dividends. Non-state money, that is, money received from the United States or others to be used for specific purposes, is also excluded. This exclusion includes revenue bond proceeds, the revenues generated by the international airports, and other public enterprises which operate on revenue bonds. The first exclusion is required by the federal constitution's prohibition against impairing contracts. The other exclusions are provided because the use of the money for those purposes is not a part of the problem.

The proposed amendment requires the governor to cause any unexpended and unappropriated balance to be invested

so as to yield competitive rates to the treasury. The words "as prescribed by law" were not included so that the clause will be self-executing. However, the governor performs all executive functions in the manner prescribed by law, and the statutes on loan programs and investments will control here so long as they are consistent with the constitution's requirements.

Additionally, so as to eliminate any reasonable grounds for opposition by those who wish to relocate the capital, the resolution includes a transitional measure to exclude relocation costs, if they are approved at the 1982 general election, from the requirement of additional voter approval under the amendment. Another transitional measure provides for the amendment to take effect beginning with the budget for fiscal year 1984.

Finally, still another transitional measure places the amendment on the ballot again at the 1986 general election to allow it to be repealed by the electorate should it prove to be unworkable. If it is unworkable, the people will repeal it. If it works, they will not.

Sen. Bill Ray

Rep. Richard W. Hairford

Sen. Donald E. Gilman

Rep. Robert H. Bettisworth

Sen. Frank R. Ferguson

Rep. Hugh Malone

- 3 -

HB 17

BUILDING ALASKA'S FUTURE:

- **INFRASTRUCTURE
DEVELOPMENT**
- **ECONOMIC GROWTH**

WHY IS HB 17
NECESSARY?

**1. ALASKA'S
INFRASTRUCTURE AND
CAPITAL NEEDS ARE
SIGNIFICANT.**

**2. ALASKA'S ECONOMY IS
NOT GROWING.**

ALASKA STATE CONSTITUTION

ARTICLE 9.16 APPROPRIATION LIMIT

APPROPRIATIONS FROM THE TREASURY MADE FOR
A FISCAL YEAR SHALL NOT EXCEED
\$2,500,000,000 BY MORE THAN THE CUMULATIVE
CHANGE, DERIVED FROM FEDERAL INDICES AS
PRESCRIBED BY LAW, IN POPULATION AND
INFLATION SINCE JULY 1, 1981.

WITHIN THIS LIMIT, AT LEAST ONE-THIRD
SHALL BE RESERVED FOR CAPITAL
PROJECTS AND LOAN APPROPRIATIONS.

PERMANENT FUND

\$20,372,000,000

INFLATION-PROOFING

\$687,000,000

DIVIDENDS

\$1,133,000,000

EARNINGS RESERVE ACCOUNT

\$6,501,000,000

STOP STOP STOP STOP STOP STOP STOP STOP STOP STOP STOP STOP STOP STOP STOP

INCOME FROM THE ERA

\$423,000,000

CAPITAL PROJECTS FUND

\$211,500,000

SUPPLEMENT TO THE DIVIDEND

\$211,500,000

CAPITAL PROJECTS FUND

**— AN ADDITIONAL \$160,712,500 FOR
CAPITAL PROJECT APPROPRIATIONS IN 2002:**

**—ENOUGH TO PAY THE STATE'S
SHARE OF THE FIRST 10
PROJECTS ON THE DEPARTMENT
OF EDUCATION'S CAPITAL
IMPROVEMENT PROJECTS
PRIORITY LIST FOR FY2002**

CAPITAL PROJECTS FUND

**— AN ADDITIONAL \$160,712,500 FOR
CAPITAL PROJECT APPROPRIATIONS IN 2002:**

**—MORE THAN THE AMOUNT
REQUESTED IN THE UNIVERSITY OF
ALASKA'S CAPITAL BUDGET AND
DEFERRED MAINTENANCE
REQUEST**

Project	Area
Well House # 4	Kenai
CVEA Project	Copper Valley & Valdez
Ketchikan Ship Yard	Ketchikan
Water and Sewer Project	Pilot Station
Wastewater Treatment Improvements	Togiak
Water and Sewer Project	Deering
Mt. Edgecumbe High School Repairs	Sitka
Togiak School Replacement	Southwest Region
Teller School Remodel/Addition	Bering Straight
Honey Bucket Lagoon/Solid Waste Disposal	Noorvik
Piped Water Project	Hooper Bay
Sanitation Improvement Project	Napaskiak
Wastewater Treatment Improvements	Togiak
Force Main and Pump Station	Mekoryuk
Water and Sewer Improvements	Fort Yukon
Wastewater Treatment Improvements	Nenam Iqua
University of Alaska Museum	University of Alaska Fairbanks
Bridge Construction	Unalaska
South Wrangell Road	Wrangell
Lift Tower Rehabilitation	Cordova
Terminal Building Expansion	Petersburg
Terminal Improvements	Skagway
Pedestrian/Bike Facility	Chitina
Terminal Basin Protection	Angoon
Terminal Building	Hoonah
Proposed Improvements to Parks Highway	
Proposed Improvements to Richardson Highway	
Proposed Improvements to Denali Highway	
Proposed Improvements to Glenn Highway	
Proposed Improvements to Klondike Highway	

ANOTHER WAY OF LOOKING AT IT:

AFTER PROBABLE MATCHING
FUNDS, THE CAPITAL
PROJECTS FUND WILL BE
WORTH CONSIDERABLY
MORE.

FOR EXAMPLE:

IF \$55 MILLION GOES TOWARD A FEDERAL 10/1 MATCH:

\$605,000,000 IN CAPITAL PROJECTS

IF \$130 MILLION GOES TOWARD A FEDERAL 50/50 MATCH:

\$260,000,000 IN CAPITAL PROJECTS

AND IF THE REST IS USED FOR ADDITIONAL CAPITAL PROJECTS:

TOTAL: \$900,000,000 ±

FOR INFRASTRUCTURE DEVELOPMENT FY2002

AND NOW THE
OTHER HALF OF THE
HB 17 GROWTH AND
DEVELOPMENT
PLAN:

GROWING OUR ECONOMY

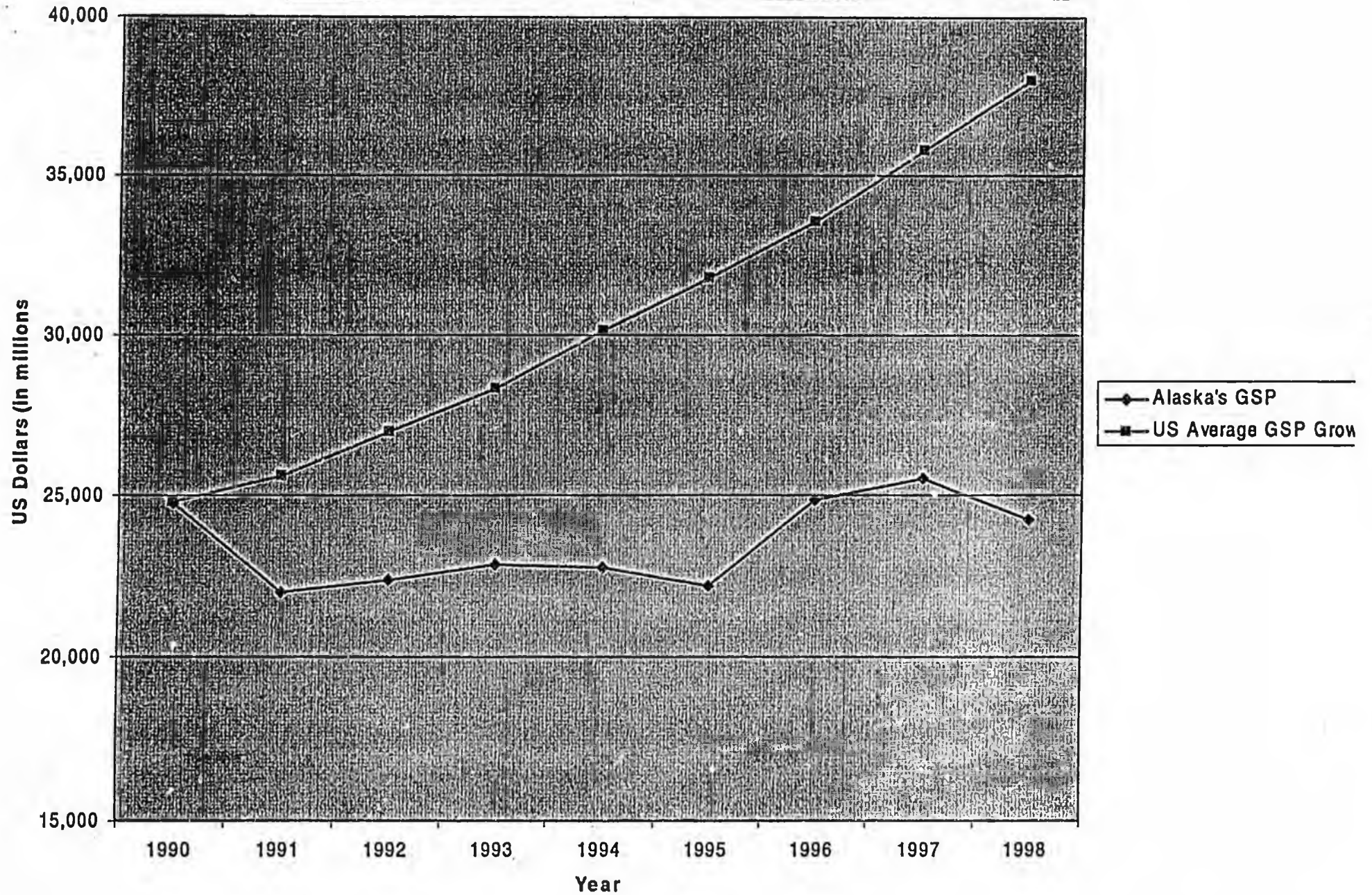
WHY IT'S NECESSARY:

- ALASKA'S ECONOMY HAS
ACTUALLY DECREASED OVER
THE LAST 10 YEARS, WHILE THE
REST OF THE NATION'S HAS
SIGNIFICANTLY INCREASED

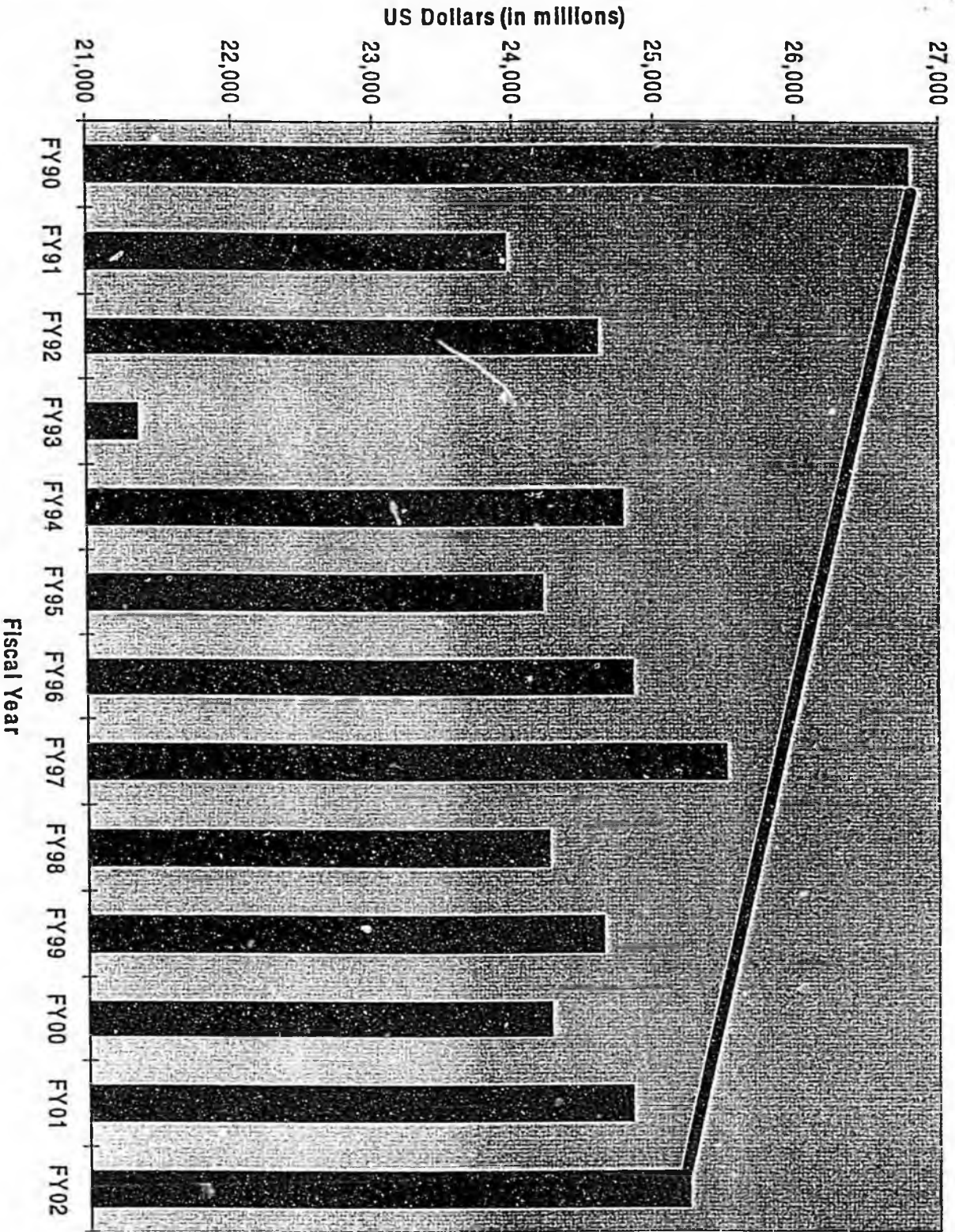
ALASKA'S GSP

OVER THE LAST TEN YEARS,
ALASKA HAS BEEN ONE OF TWO
STATES IN THE US WITH A
DECLINING GROSS STATE
PRODUCT. AND ALASKA HAS
HAD THE STEEPEST DECLINE OF
THE TWO.

ALASKA'S GSP

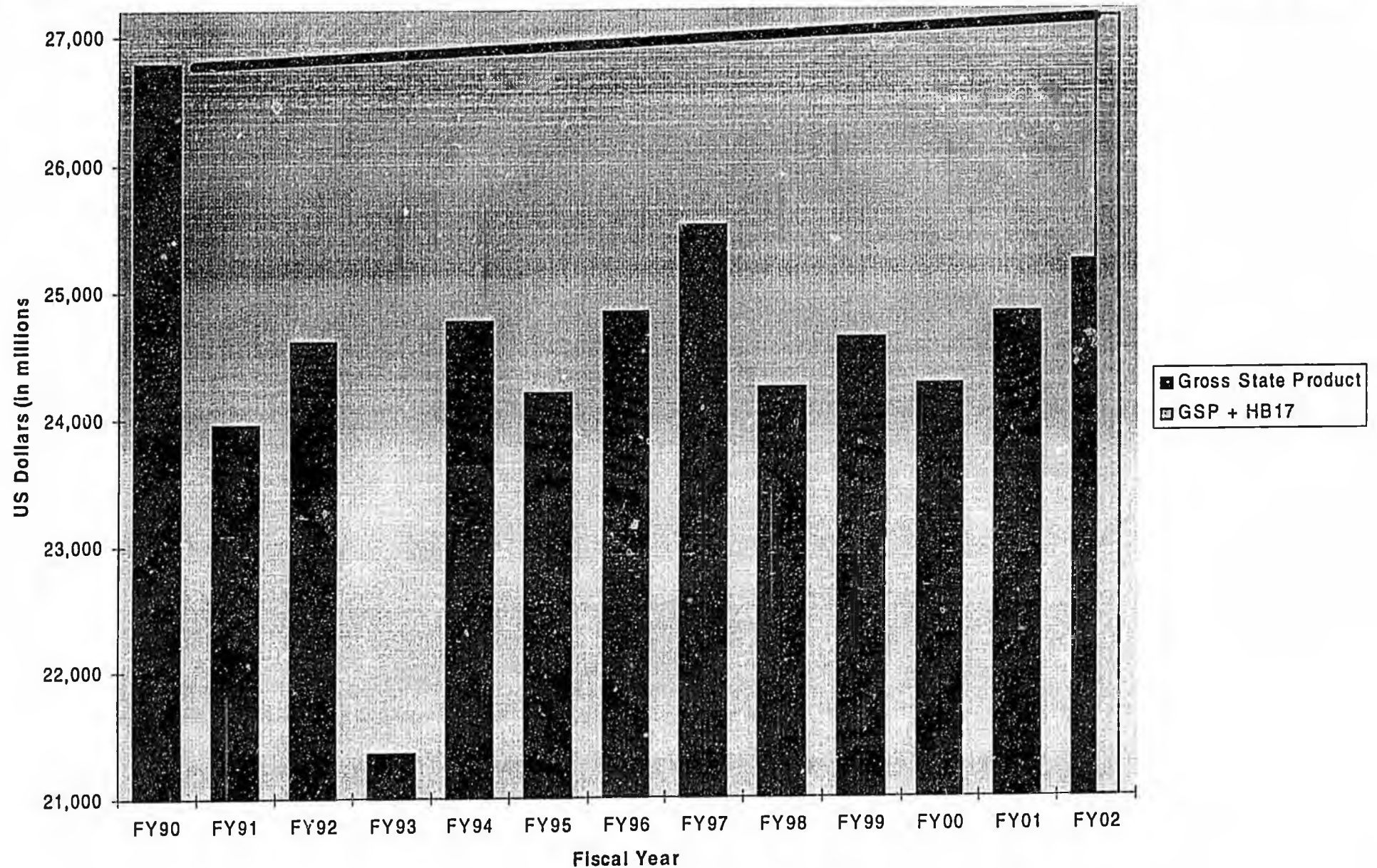


ALASKA'S GSP

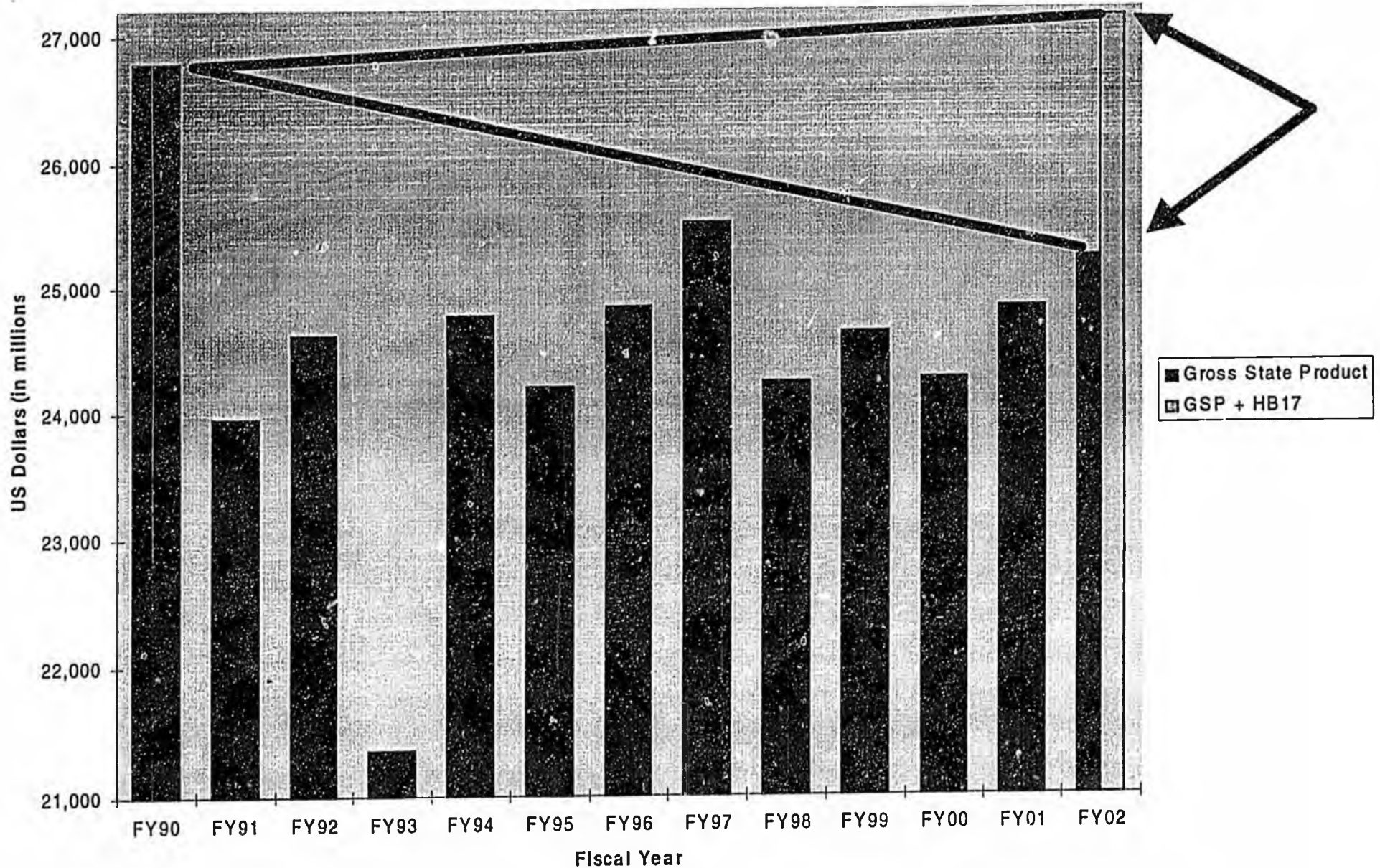


**BY PROVIDING FOR A
SUPPLEMENT TO THE
ALASKA PERMANENT
FUND DIVIDEND OR A
MUNICIPAL DIVIDEND, WE
CAN GROW ALASKA'S
ECONOMY
SUBSTANTIALLY.**

GROWING ALASKA'S ECONOMY



ECONOMIC GROWTH



OPTION 1, THE DIVIDEND APPROACH:

OCTOBER 2000

\$1963.86
 \$0
\$1963.86

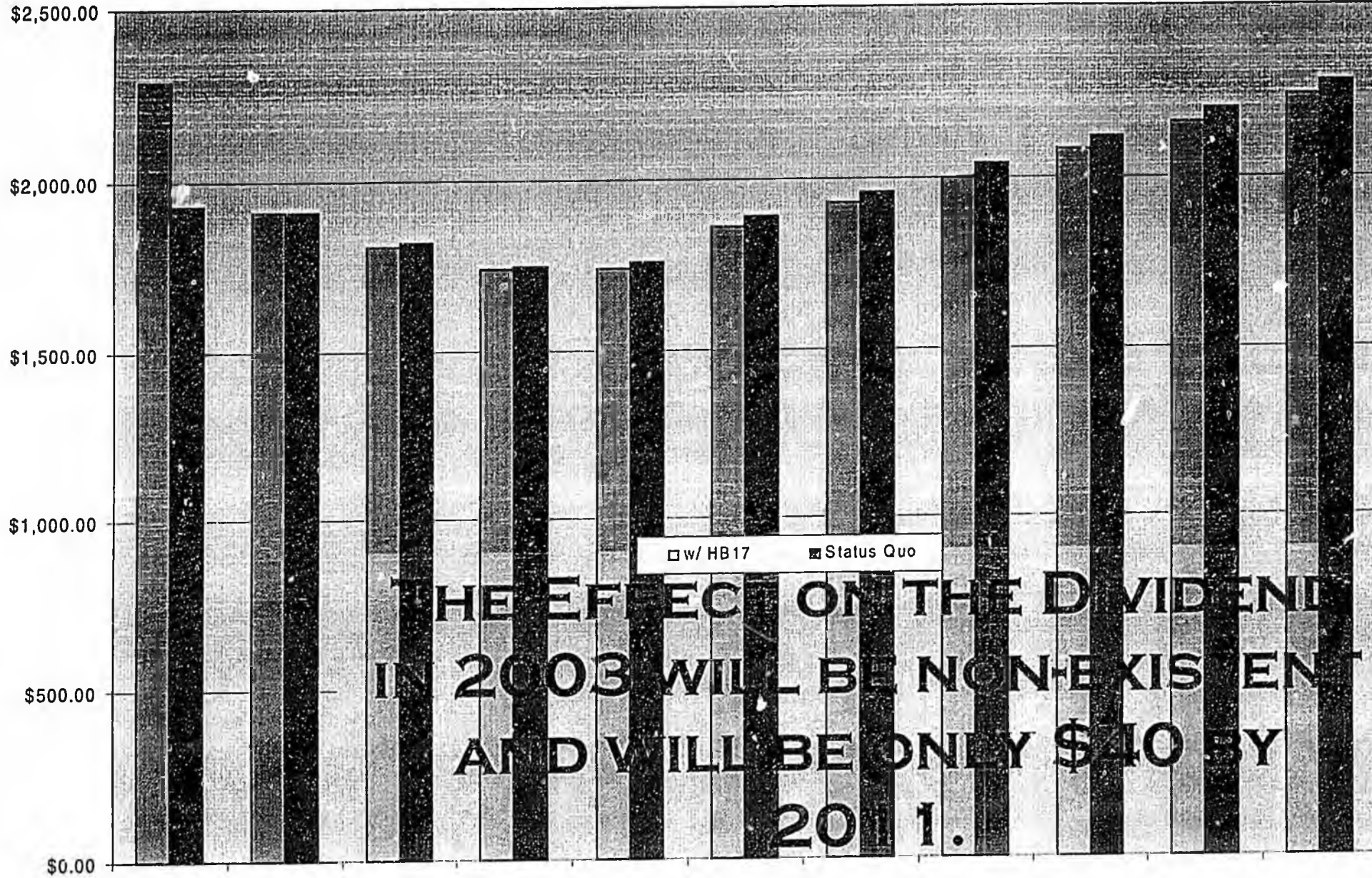
OCTOBER 2001

\$1948.33
 \$0
\$1948.33

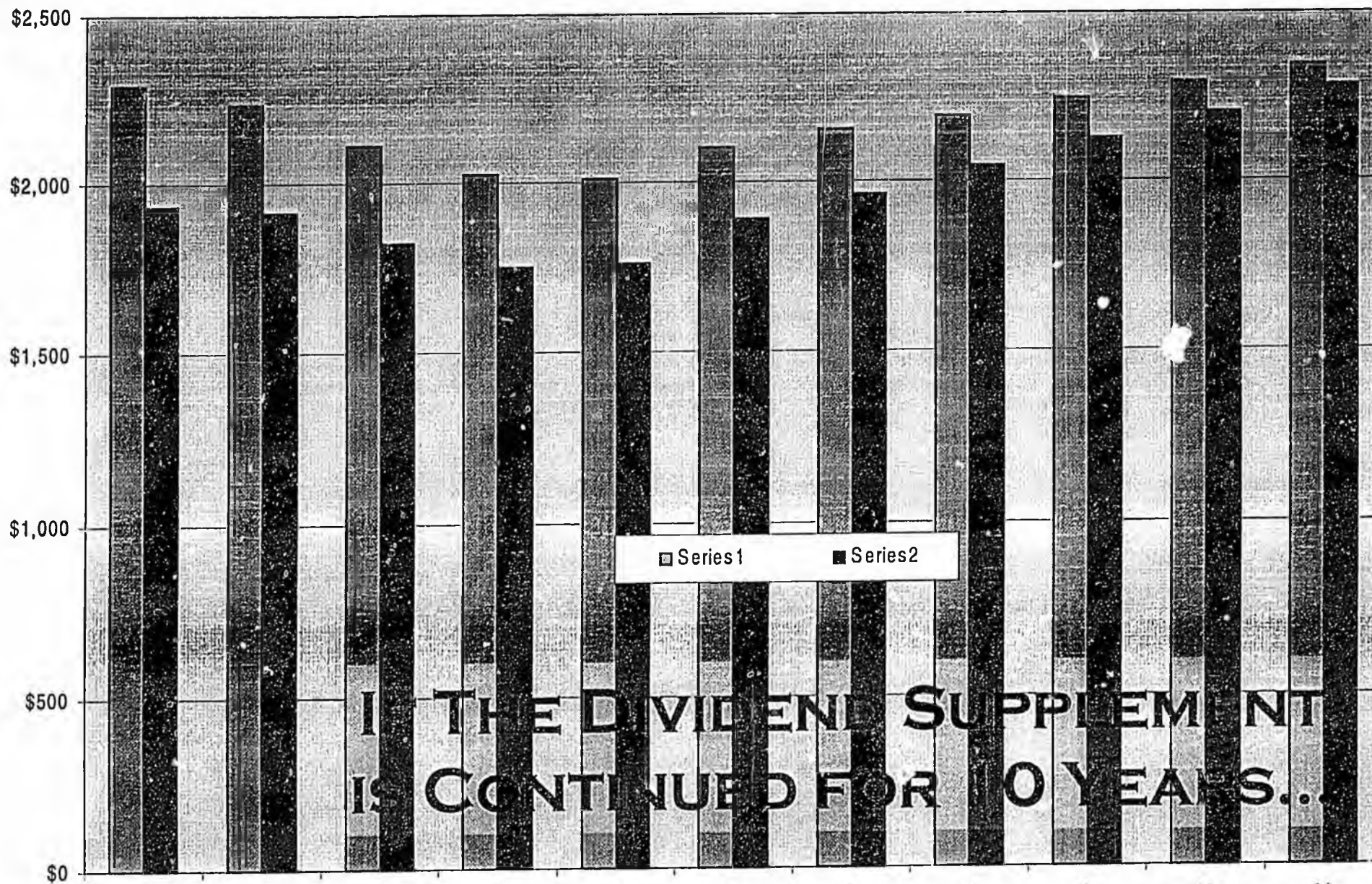
OCTOBER 2002

\$1930.00
 \$360.00
\$2290.00

EFFECT ON FUTURE DIVIDENDS



EFFECT ON FUTURE DIVIDENDS



**THIS GROWTH CAN BE
ACCOMPLISHED WITH NO
EFFECT TO THE
PERMANENT FUND
CORPUS.**

HB 17 EFFECT ON PF CORPUS

SINCE THE MONEY USED FOR
CAPITAL PROJECTS AND THE
SUPPLEMENT TO THE
DIVIDEND IS TAKEN FROM THE
EARNINGS OF THE ERA, THE
EFFECT ON THE PERMANENT
FUND CORPUS IS ZERO.

HB 17 EFFECT ON PF CORPUS

