

CORRECTION

HOUSE BILL NO. 33

Committee referrals changed to:

Special Gas Pipeline Committee and Finance

Please discard all previous copies of this Bill.

Introduced: 2/4/81  
Referred: Special Gas Pipeline  
Committee and Finance

1 IN THE HOUSE

BY GARDINER AND ROGERS

2 HOUSE BILL NO. 33

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act establishing the portfolio of Alaska citizen  
7 enterprises; and providing for an effective date."

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

9 \* Section 1. DECLARATION OF POLICY, PURPOSES AND FINDINGS. (a) It is  
10 the policy of the state to provide for the use, development, and conserva-  
11 tion of the state's natural resources and the income derived from them for  
12 the maximum benefit of its people.

13 (b) The purposes of this Act are to

14 (1) transfer part of the wealth derived from the natural re-  
15 sources of the state to its residents;

16 (2) provide a means for the direct participation of state resi-  
17 dents in the financing of business enterprises which benefit the state, and  
18 to provide residents with the opportunity to share in potential profits;

19 (3) reduce ownership and control of industries in the state by  
20 nonresidents;

21 (4) encourage greater participation in and understanding of the  
22 capitalist system by residents through a wider distribution of economic  
23 interests in state business enterprises;

24 (5) encourage increased awareness and involvement by state resi-  
25 dents in the management of state natural resource production and develop-  
26 ment;

27 (6) encourage increased awareness and involvement by state resi-  
28 dents in state participation in business enterprises; and

29 (7) encourage increased awareness and involvement by state resi-

1 dents in the development of local industry.

2 (c) The legislature finds that

3 (1) it is in the public interest and furthers a public purpose to  
4 distribute a part of Alaska's wealth derived from natural resources to state  
5 residents to increase their involvement and awareness regarding the manage-  
6 ment of the state's natural resources, the development of its local industry,  
7 and the capitalist system;

8 (2) a mechanism allowing the state to distribute a part of its  
9 resource wealth to residents will best promote the state's interest in  
10 creating direct involvement by residents in the decisions concerning the  
11 state's natural resource management; and

12 (3) a mechanism allowing the state to distribute a part of its  
13 ownership interests in business enterprises to residents will best promote  
14 the state's interest in creating direct involvement by residents in the  
15 decisions concerning state investments and development of local industry.

16 (d) Except as otherwise required by law, it is intended that distribu-  
17 tions to residents under this Act shall be unencumbered property.

18 \* Sec. 2. AS 43 is amended by adding a new chapter to read:

19 CHAPTER 17. PORTFOLIO OF ALASKA CITIZEN ENTERPRISES.

20 ARTICLE 1. PORTFOLIO OF ALASKA CITIZEN ENTERPRISES PROGRAM.

21 Sec. 43.17.010. ESTABLISHMENT OF PROGRAM. The portfolio of  
22 Alaska citizen enterprises is established in the department to provide  
23 for distribution of state assets to state residents.

24 Sec. 43.17.020. PORTFOLIO PLANS. (a) The department shall de-  
25 velop portfolio plans for distribution of state assets. A portfolio  
26 plan must

27 (1) provide for contribution or transfer of assets owned by  
28 the state or to be acquired by the state;

29 (2) provide for distribution of interests in the assets

1 owned by the state or to be acquired by the state to eligible residents  
2 by issuing certificates representing units of

- 3 (A) a state energy resource trust;  
4 (B) a state industrial development project;  
5 (C) a state general stock ownership corporation;  
6 (D) a state investment fund;  
7 (E) a state real estate trust;  
8 (F) a business enterprise.

9 (3) specify the assets to be distributed;

10 (4) specify how the assets not then owned by the state will  
11 be acquired by the state;

12 (5) specify the date on which an individual must be a state  
13 resident to be eligible to participate in the distribution of units  
14 under AS 43.17.060 - 43.17.090;

15 (6) specify how an individual applies for a unit;

16 (7) specify the types of assets involved, an appraisal of  
17 their value, the number of units to be distributed, and the manner in  
18 which the units will be distributed;

19 (8) specify the terms of payment for units to be sold and  
20 the number of units to be distributed without charge;

21 (9) specify restrictions on the transfer or encumbrance by  
22 the state of a distributed unit;

23 (10) provide a financial assessment of the portfolio plan  
24 including

- 25 (A) administrative costs;  
26 (B) initial costs;  
27 (C) a projection of future costs;  
28 (D) contingent costs or liabilities;  
29 (E) a projection of future earnings;

1 (F) value of the units in the plan;  
2 (G) probable financial and tax consequences for pur-  
3 chasers and recipients of units;

4 (11) list and evaluate state and federal laws and regulations  
5 affecting the portfolio plan;

6 (12) propose legislation needed to implement the portfolio  
7 plan; and

8 (13) include other information considered necessary by the  
9 commissioner.

10 (b) If a corporation or trust is needed to implement the port-  
11 folio plan, the plan must include

12 (1) the proposed articles of incorporation and bylaws of the  
13 corporation or the proposed trust indenture of the trust;

14 (2) the names of the incorporators and directors of the  
15 corporation or the trustees of the trust or the method of selecting  
16 those individuals.

17 Sec. 43.17.030. PORTFOLIO PLANS SUBMITTED TO LEGISLATURE. (a)  
18 The commissioner shall submit one or more portfolio plans to the Second  
19 Session of the Twelfth Legislature and to both regular sessions of the  
20 Thirteenth Legislature. This submission shall be made on or before the  
21 30th day of each legislative session.

22 (b) A portfolio plan may not be implemented until it has been  
23 approved by law.

24 ARTICLE 2. DISTRIBUTION OF UNITS.

25 Sec. 43.17.050. ELIGIBILITY. (a) To be eligible to purchase a  
26 unit under AS 43.17.080 - 43.17.090 or to receive a unit distributed  
27 under AS 43.17.070, an individual must

28 (1) be a resident of the state on the eligibility date  
29 established in the portfolio plan under which the unit is distributed;

1 (2) apply to the department; and  
2 (3) submit with the application a signed, sworn certifica-  
3 tion that he was a resident of the state on the eligibility date and  
4 other proof of residency as the commissioner may require, including

5 (A) evidence that he was registered to vote in Alaska  
6 on the eligibility date, and actually voted in the last statewide  
7 general election before that date;

8 (B) an Alaska driver's license, or a resident hunting,  
9 fishing, or trapping license, issued on or before the eligibility  
10 date, and valid on the eligibility date;

11 (C) evidence that, on the eligibility date, he had  
12 telephone or utility service at a residence in the state listed in  
13 his name or in the name of a spouse, or, if the individual is a  
14 minor, in the name of a parent or guardian;

15 (D) an affidavit of one or more individuals having  
16 personal knowledge concerning his residency on the eligibility  
17 date; and

18 (E) other documentary evidence of residency acceptable  
19 to the commissioner.

20 (b) An individual is presumed to be a resident of the state on  
21 the eligibility date if he provides at least two items specified in  
22 (a)(3) of this section.

23 (c) The department shall prescribe and furnish a form for ap-  
24 plications and for certification of residency.

25 Sec. 43.17.060. NUMBER AND PURCHASE PRICE OF UNITS ISSUED. (a)  
26 For each portfolio plan the commissioner shall establish a purchase  
27 price for each unit to be sold under AS 43.17.080 - 43.17.090. The  
28 price for each unit may not exceed \$50.

29 (b) The commissioner shall determine the total number of units to

1 be distributed under a portfolio plan by dividing the value of the  
2 assets contributed under the plan by the purchase price for a unit  
3 established under (a) of this section.

4 (c) The value of assets contributed to a state industrial develop-  
5 ment project, a state general stock ownership corporation, a state  
6 investment fund, a state real estate trust, or a business enterprise,  
7 is equal to the cost to the state of the assets contributed to the  
8 portfolio plan, plus an amount that compensates the state for the  
9 administrative costs of acquiring, holding, and distributing those  
10 assets.

11 (d) The value of assets contributed to a state energy resource  
12 trust is the conservatively appraised value of the assets. A con-  
13 servatively appraised value for assets in a state energy resource trust  
14 is a value determined by generally accepted appraisal methods and shall  
15 be calculated using

16 (1) estimates of resource production volumes having an accu-  
17 racy confidence level of 75 percent or greater;

18 (2) an assumed rate of increase in future world prices for  
19 resources not exceeding the general rate of price inflation in the  
20 United States; and

21 (3) a discount rate reflecting the judgment of private in-  
22 vestors as to the expected rate of return before payment of taxes re-  
23 quired to justify incremental investments in the exploration and de-  
24 velopment of resources comparable to those committed under a portfolio  
25 plan.

26 (e) Before a sale of units, the commissioner shall publish notice  
27 of the purchase price.

28 Sec. 43.17.070. FREE DISTRIBUTION. A part of the units to be  
29 distributed in accordance with AS 43.17.060(b) shall be distributed

1 equally without charge to all eligible individuals who apply to receive  
2 them. The number of the units to be distributed under this section  
3 shall total at least five percent, but not more than 15 percent, of all  
4 units to be distributed.

5 Sec. 43.17.080. FIRST RESTRICTED SALE. (a) The commissioner  
6 shall offer for sale in a first restricted sale all units authorized to  
7 be distributed under a portfolio plan, other than those distributed  
8 without charge under AS 43.17.070.

9 (b) In a first restricted sale, an individual may subscribe for  
10 any number of units by submitting an application and certificate of  
11 residency under AS 43.17.050 and a deposit equal to 10 percent of the  
12 purchase price of the units. The deposit must be in the form of cash,  
13 check, or money order. The individual shall indicate on his applica-  
14 tion whether he wishes to pay for the units at one time or under an  
15 extended purchase plan.

16 (c) If a sale is oversubscribed, each eligible individual apply-  
17 ing under this section may purchase the lesser of

18 (1) the number of units he applied for; or

19 (2) the number of units which allows for an equal distribu-  
20 tion among all applicants of the units authorized for sale.

21 (d) The commissioner shall notify each subscriber who elects to  
22 pay for units at one time of the total number of units he is entitled  
23 to purchase and the balance due. On receipt of cash, check, or money  
24 order equal to the balance due, the commissioner shall issue to the  
25 subscriber a certificate for each unit purchased. If the subscriber  
26 fails to complete the purchase within 60 days of notification, the  
27 commissioner shall issue to him the number of units paid for by the  
28 deposit, and refund any balance remaining from the deposit.

29 (e) The commissioner shall notify each subscriber who elects to

1 pay for units under an extended payment plan of the total number of  
2 units that he is entitled to purchase in the first restricted sale, and  
3 issue to him

4 (1) certificates for one-tenth of the units;

5 (2) a refund of the difference, if any, between the deposit  
6 and the purchase price for the number of units represented by certifi-  
7 cates issued; and

8 (3) purchase warrants in accordance with AS 43.17.110 for  
9 nine-tenths of the units.

10 Sec. 43.17.090. SECOND RESTRICTED SALE. (a) If the first re-  
11 stricted sale under a portfolio plan is undersubscribed and if the plan  
12 authorizes a second restricted sale, the commissioner shall conduct a  
13 second restricted sale.

14 (b) At a second restricted sale an individual may submit one or  
15 more sealed bids, each of which must specify the number of units that  
16 he wishes to purchase and a bid price for each unit. The bid price  
17 must equal or exceed a minimum bid price specified by the commissioner,  
18 which may be less than, equal to, or more than the purchase price at  
19 the first restricted sale.

20 (c) The sealed bid must be accompanied by an application and  
21 certificate of residency under AS 43.17.050 and by a deposit equal to  
22 10 percent of the total bid price. The deposit must be in the form of  
23 cash, check, or money order.

24 (d) The commissioner shall tally the bids in descending order of  
25 bid price, until the total number of units bid for equals the number of  
26 units to be sold. If the number of units to be sold exceeds the number  
27 of units bid for, the commissioner shall accept the bids that have been  
28 tallied. If the number of units to be sold is less than the number of  
29 units bid for, the commissioner shall accept all bids equal to or

1 greater than the specified minimum bid price.

2 (e) Units sold at a second unrestricted sale must be paid for at  
3 one time. The commissioner shall notify a successful bidder of the  
4 total number of units he is entitled to purchase and of the balance  
5 due. On receipt of cash, check, or money order the commissioner shall  
6 issue to the bidder certificates representing the units purchased. If  
7 the bidder fails to complete the purchase within 60 days, the commis-  
8 sioner shall issue to him certificates representing the number of units  
9 paid for by the deposit and refund any balance remaining from the de-  
10 posit.

11 Sec. 43.17.100. UNRESTRICTED SALE. Except as expressly pro-  
12 hibited by this chapter or under the terms of a portfolio plan, the  
13 commissioner may hold as investments or may sell those units authorized  
14 to be distributed under a portfolio plan which remain undistributed  
15 after completion of the free distribution, the first restricted sale,  
16 and the second restricted sale, and which are not reserved under pur-  
17 chase warrants.

18 Sec. 43.17.110. PURCHASE WARRANTS. (a) A purchase warrant  
19 entitles a subscriber to purchase nine-tenths of the number of units he  
20 was entitled to purchase in a first restricted sale according to the  
21 following schedule:

22 (1) one-tenth of the units not later than one year after the  
23 purchase warrant was issued;

24 (2) one-tenth of the units not later than two years after  
25 the purchase warrant was issued;

26 (3) one-tenth of the units not later than three years after  
27 the purchase warrant was issued;

28 (4) one-tenth of the units not later than four years after  
29 the purchase warrant was issued;

1 (5) one-tenth of the units not later than five years after  
2 the purchase warrant was issued;

3 (6) one-tenth of the units not later than six years after  
4 the purchase warrant was issued;

5 (7) one-tenth of the units not later than seven years after  
6 the purchase warrant was issued;

7 (8) one-tenth of the units not later than eight years after  
8 the purchase warrant was issued;

9 (9) one-tenth of the units not later than nine years after  
10 the purchase warrant was issued.

11 (b) The total price for a unit purchased with a purchase warrant  
12 is the purchase price of the unit at the time of the first restricted  
13 sale increased by an amount equal to the weighted average rate of  
14 interest paid by the state on bonds issued after the first restricted  
15 sale and before the time the purchase warrant is used compounded from  
16 the date the purchase warrant was issued to the date of payment for the  
17 units. The purchase price shall be decreased by the amount of divi-  
18 dends, interest, royalties, or profits received by the state from  
19 holding the units between the date the purchase warrant was issued and  
20 the date of payment for the units, except that the price may not be  
21 reduced below 50 percent of the purchase price for a unit at the time  
22 of the first restricted sale.

23 (c) Payment for units purchased using a purchase warrant may be  
24 made by cash, check, or money order.

25 (d) A purchase warrant is void if transferred. A purchase warrant  
26 may not be used except by an individual who is a resident of the state.

27 Sec. 43.17.120. DISPOSITION OF PROCEEDS. The commissioner shall  
28 deposit net proceeds from the sale of units under this chapter into the  
29 Alaska permanent fund established in art. IX, sec. 15 of the state

1 constitution and AS 37.13.010.

2 ARTICLE 3. GENERAL PROVISIONS.

3 Sec. 43.17.150. DISPOSITION OF UNITS. (a) Except as provided in  
4 (b) of this section, an individual has an unrestricted right to sell,  
5 transfer, devise, pledge or dispose of a unit, an interest in a unit,  
6 or earnings from a unit which is his.

7 (b) A portfolio plan for a state general stock ownership corpora-  
8 tion or for a state energy resource trust may include restrictions on  
9 the transfer or disposition of units in the corporation or trust.

10 Sec. 43.17.160. VOTING RIGHTS. (a) The commissioner may exer-  
11 cise the voting rights attached to a unit that the state owns, holds in  
12 trust, or reserves for future distribution.

13 (b) The voting rights attached to ownership of a unit distributed  
14 under a portfolio plan must be conveyed unrestricted to the individual  
15 receiving the unit. The commissioner may not reserve a voting right or  
16 require as a condition of the distribution that the recipient waive a  
17 voting right, grant a proxy, or adhere to a voting trust.

18 Sec. 43.17.170. AUTHORITY TO PARTICIPATE IN MARKET. (a) If the  
19 commissioner determines that an efficient public market does not exist  
20 for the sale of units, he may buy, sell, and trade in units for the  
21 purpose of establishing a market.

22 (b) If the commissioner trades in units as authorized in (a) of  
23 this section, he shall maintain an average markup sufficient to compen-  
24 sate the state for the administrative costs of his trading activity and  
25 shall publish regularly the bid and asking prices for units traded.

26 (c) In this section, "efficient public market" means a market in  
27 which the units distributed under this chapter have a readily ascer-  
28 tainable market value and in which they may be bought or sold readily  
29 without unnecessary or unreasonable transaction costs.

1           Sec. 43.17.180. WAIVER OF RESTRICTIONS. AS 37.10.085 does not  
2 apply to the acquisition of assets under this chapter.

3           Sec. 43.17.190. REGULATIONS. The department may adopt regula-  
4 tions necessary to administer this chapter.

5           Sec. 43.17.200. PENALTIES. In addition to any criminal penalties  
6 imposed, if an individual is convicted of perjury or unsworn falsifica-  
7 tion on the basis of a certification made under AS 43.17.050 and the  
8 conviction is not reversed, he is not eligible for a distribution of  
9 units under this chapter.

10          Sec. 43.17.210. DEFINITIONS. In this chapter,

11           (1) "assets" means shares of stock, debentures or other debt  
12 obligations, royalties or other interests in minerals, or other inter-  
13 ests in business enterprises or natural resources;

14           (2) "business enterprise" means a private corporation en-  
15 gaging or about to engage in the state in manufacturing, transportation,  
16 communication, trade, services, natural resource extraction, or natural  
17 resource processing, whose securities the commissioner has purchased  
18 under AS 37.10, or has proposed to purchase under the terms of a port-  
19 folio plan established under this chapter;

20           (3) "certificate" means an instrument evidencing ownership  
21 of one or more units and includes stock certificates, debentures or  
22 other debt instruments and trust certificates;

23           (4) "commissioner" means the commissioner of revenue;

24           (5) "department" means the Department of Revenue;

25           (6) "eligibility date" means a date established by the  
26 commissioner for a distribution of units under a portfolio plan estab-  
27 lished under this chapter;

28           (7) "extended purchase plan" means the purchase of units  
29 over a period of time through the exercise of purchase warrants;

1 (8) "individual" means a natural person;

2 (9) "oversubscribed" means a sale in which the total number  
3 of units subscribed for exceeds the total number of units available for  
4 sale;

5 (10) "purchase warrant" means an instrument authorizing the  
6 purchase of units under this chapter;

7 (11) "resident" means an individual who maintains a permanent  
8 place of abode in the state with the intention of making the state his  
9 permanent residence and who stays in the state continuously except for  
10 temporary absences taken with the intent of returning; an individual is  
11 not a resident solely by reason of his presence and does not cease to  
12 be a resident solely by reason of his absence because of marriage to a  
13 person engaged in the civil or military service of this state or the  
14 United States; an individual does not cease to be a resident while a  
15 student at an educational institution, while in an institution at  
16 public expense, while confined in prison, while engaged in the naviga-  
17 tion of waters of this state, of the United States, or of the high  
18 seas, or while residing in an Indian or military reservation; a minor  
19 takes the residence of his parent or of his legal guardian; a married  
20 woman may establish her own residence and does not presumptively take  
21 the residence of her husband;

22 (12) "state energy resource trust" means a trust established  
23 under this chapter the assets of which consist of a right to receive  
24 income equal to a specified part of the rentals, royalties, or net  
25 profits belonging to the state under specified leases of state land for  
26 the extraction of oil, gas, coal, oil shale, or other minerals or a  
27 specified part of the revenue from the sale of oil, gas, coal, oil  
28 shale, or other minerals taken by the state as in kind royalties under  
29 those leases;

1 (13) "state general stock ownership corporation" means a  
2 corporation formed in accordance with subchapter U, Chapter 1 of the  
3 Internal Revenue Code of 1954, as amended (26 U.S.C. secs. 1391 -  
4 1397);

5 (14) "state industrial development project" means a business  
6 enterprise engaged or about to engage in the state in manufacturing,  
7 transportation, communications, natural resource extraction, or natural  
8 resource processing, and to which the state or an agency or subdivision  
9 of the state contributes an investment of equity or debt exceeding  
10 \$100,000,000;

11 (15) "state investment fund" means a regulated investment  
12 company organized in accordance with subchapter M, Chapter 1 of the  
13 Internal Revenue Code of 1954 as amended (26 U.S.C. secs. 851 - 855);

14 (16) "state real estate trust" means a real estate investment  
15 trust organized in accordance with subchapter M, Chapter 1 of the  
16 Internal Revenue Code of 1954 as amended (26 U.S.C. secs. 856 - 858);

17 (17) "undersubscribed" means a sale in which the total number  
18 of units available for sale exceed the number of units subscribed;

19 (18) "unit" means an undivided fractional ownership right or  
20 interest in a trust, corporation, fund, project or enterprise estab-  
21 lished under this chapter.

22 \* Sec. 3. This Act takes effect immediately in accordance with AS 01.10.-  
23 070(c).