To establish a congressionally chartered seaway development corporation in the Arctic, consistent with customary international law, with the intention of uniting Arctic nations in a cooperative Arctic shipping union, where voluntary collective maritime shipping fees will help fund the infrastructural and environmental demands of safe and reliable shipping in the region.

IN THE SENATE OF THE UNITED STATES

APRIL 11, 2019

Ms. Murkowski (for herself, Mr. Sullivan, and Mr. King) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To establish a congressionally chartered seaway development corporation in the Arctic, consistent with customary international law, with the intention of uniting Arctic nations in a cooperative Arctic shipping union, where voluntary collective maritime shipping fees will help fund the infrastructural and environmental demands of safe and reliable shipping in the region.

Be it enacted by the Senate and House of Representa-
atives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE.

This Act may be cited as the “Shipping and Environmental Arctic Leadership Act” or the “SEAL Act”.

SEC. 2. DEFINITIONS.

In this Act:

(1) ARCTIC.—The term “Arctic” has the meaning given the term in section 112 of the Arctic Research and Policy Act of 1984 (15 U.S.C. 4111).

(2) ARCTIC SEA ROUTES.—The term “Arctic Sea Routes” means the international Northern Sea Route, the Transpolar Sea Route, and the Northwest Passage.

SEC. 3. FINDINGS.

Congress finds the following:

(1) The Arctic seas have historically been considered impassable and impractical maritime routes, but diminishing Arctic sea ice, better icebreaking technology, and global demand for Arctic resources has opened up opportunity for international trade routes through Arctic Ocean waters.

(2) According to the National Oceanic and Atmospheric Administration, over the last 20 years atmospheric temperatures have increased at a rate at least 3 times the global average, and as of 2011 sea ice thickness was 42 percent below what it was in
1979. If trends continue, summers may produce ice-
free waters in the Arctic Ocean by the late 2030s.

(3) The Bering Strait is experiencing signifi-
cant increases in international traffic from vessels
using the Arctic Sea Routes. Increases in inter-
national traffic are projected to continue.

(4) While the Arctic Council’s agreements on
search and rescue, spill prevention and response,
and initiatives through the International Maritime
Organization to bring about a mandatory polar code
are significant, little or no cooperation yet exists in
the Arctic region to bring about needed maritime in-
frastructure, nor do Arctic coastal states and user
states cooperate in establishing common seaway ad-
ministration. International coordination and invest-
ment in infrastructure for shipping routes, ice-
breaker service and refuge, ports, spill prevention
and response, salvage, and LNG bunkering, would
be collectively beneficial for all associated states, the
environment, and global commerce.

(5) Trans-Arctic shipping brings substantial
commercial benefits. Shipping distance between Eu-
rope and Asia could be reduced by 4,500 nautical
miles, saving a week’s time and 40 percent in freight
shipping distances compared to alternative routes.
Through a voluntary tariff model, user nations from the remainder of the world can be invited to share with Arctic nations the capital and operating costs necessary for safe and reliable infrastructure in the Arctic Ocean and its approaches.

(6) As this new frontier emerges, the United States should assume leadership to ensure safe, secure, and reliable Arctic seaway development, and further to ensure that the Arctic becomes a place of international cooperation rather than competition or conflict.

(7) Setting precedent for cooperative infrastructure investment and greater reliability in domestic and international shipping is the St. Lawrence Seaway between the United States and Canada, which links the Great Lakes to the Atlantic Ocean. The Seaway operates in internal waters, rather than international waters, but offers ship operators a coordinated suite of services, similar to what is needed in the Arctic Ocean and its approaches.

(8) The St. Lawrence Seaway Development Corporation, established in 1954, is a model for a United States Government corporation that constructs, operates, and maintains sea passage infrastructure in water bodies shared with another na-
tion. It corresponds with its Canadian counterpart, the St. Lawrence Seaway Management Corporation. In 2010 the Great Lakes-Seaway system generated—

(A) 226,833 United States and Canadian jobs;

(B) $33,600,000,000 in business revenue from maritime activity; and

(C) $4,600,000,000 in Federal, State, provincial, and local tax revenue from maritime activity.

(9) In 2012 the Russian Duma passed legislation to create a single management agency called the Northern Sea Route Administration, to manage all infrastructural and navigational services across what Russia claims to be its Arctic territorial waters. This is a claim the United States and many other nations do not recognize. Russia is investing heavily into Northern Sea Route infrastructure, anticipating an increase in cargo transport from 1,800,000 tons in 2010 to 64,000,000 tons by 2020. The Russian Northern Sea Route Administration charges escort fees for international cargo ships as high as $500,000, and aims to collect a share of revenues that might otherwise be paid as tariffs on the Suez
Canal where collections totaled $5,300,000,000 in 2017.

(10) The Russian Federation has considered legislation to require all energy traffic on the Northern Sea Route to be carried by Russian-flagged ships.

(11) Rising transit in United States Arctic region waters necessitates a management agency and infrastructure investment in a transportation system. As identified in the Ten-Year Prioritization of Infrastructure Needs in the United States Arctic prepared by the United States Committee on the Marine Transportation System Arctic Transportation Integrated Action Team for the United States Department of Transportation, there is a significant infrastructure gap in the Arctic in the areas of—

(A) navigable waterways, such as waterway coordination with international stakeholders;

(B) physical infrastructure, such as infrastructure around Port Clarence and Port of Nome in Alaska to support commercial activity;

(C) informational infrastructure, such as up-to-date nautical charts and electronic aids to navigation;
(D) MTS Response Services, such as emergency response and rescue capabilities; and

(E) vessel operations, such as United States icebreaking capabilities.

(12) The Arctic offers economic value to the United States through commercial shipping and international trade routes, energy, mining, commercial fishing, tourism, and tug and barge operations. The Arctic offers environmental and cultural value through ecological significance, unique wildlife, indigenous peoples and Alaskan communities, and scientific research. The Arctic offers security value to the United States as a way to move United States vessels and forces between the world’s oceans, and through other waters. While the United States does not support mandatory tariffs in this region, it does not currently have a way to collect voluntary tariffs for providing assistance to vessels crossing through the Bering Strait or the Arctic Ocean.

(13) Reinvesting into infrastructural and environmental demands with funds collected from international shipping fees will be essential to the long-term viability of the Arctic.
Environmental protection of the Arctic takes the form of pollution prevention, clean-up, and accident response.

Arctic prevention and clean-up involves all feasible efforts to remove or mitigate pollutants from the environment. Arctic ecosystems are more susceptible to biological damage from pollutants than more temperate climates. Existing removable hazards, such as dumped radioactive waste and other toxic substances, must be handled.

Arctic pollution prevention takes collective adherence to regulations and best practices. United States leadership on clean practices in the Arctic will be essential in the ecosystem’s sustainability. Provision of bunkering facilities to enable the use of clean LNG fuels for ships will strengthen pollution prevention.

Environmental response capabilities in the Arctic are weak, sparse, and have only begun to be internationally coordinated. Transportation of oil and gas and maritime traffic is expected to increase significantly in the Arctic, which will increase the risk of accidents. The Arctic region is particularly vulnerable to pollution from oil and gas shipping. Because oil spills in ice are considerably more com-
plicated to address than oil spills in open waters, ef-
fects of oil spills could remain in the region for peri-
ods of 50 years or more. In 2010 the International
Maritime Organization passed Guidelines for Ships
Operating in Polar Waters, citing, “the need to en-
sure that all ship systems both are capable of func-
tioning effectively under anticipated operating condi-
tions and provide adequate levels of safety in acci-
dent and emergency situations”.

(18) In June 2014, the Government Accountability
Office (GAO) reported that the Coast Guard
was experiencing a gap in its heavy icebreaking ca-
pacity and was without a heavy icebreaker from
2010 to 2013. Tariffs collected through this system
can help United States public and private icebreaker
capacity grow, and induce additional private invest-
ment in marine safety and services.

(19) During the most recent United States
Chairmanship of the Arctic Council, May 2017, the
Arctic Council’s Protection of the Arctic Marine En-
vironment Working Group established an Arctic
Shipping Best Practices Information Forum to help
serve as a resource hub of information, guidance,
and guidelines that aid decision-makers involved in
Arctic maritime navigation and those affected by
maritime operations related to the Polar Code. Insurers of Arctic shipping encouraged this Forum to help bring about safer and more reliable shipping in the Arctic region, and to reduce losses. This Act is in support of the same goals.

SEC. 4. CREATION OF THE ARCTIC SEAWAY DEVELOPMENT CORPORATION.

There is hereby created, subject to the direction and supervision of the Secretary of Transportation, in conjunction with the Secretary of State, the Secretary of Defense operating through the Secretary of the Army, and the Secretary of the Department in which the Coast Guard is operating, a body corporate to be known as the Arctic Seaway Development Corporation (hereinafter referred to as the “Corporation”).

SEC. 5. SERVICES.

(a) IN GENERAL.—The Secretary of Transportation, in conjunction with the Secretary of the Department in which the Coast Guard is operating, the Secretary of Defense acting through the Secretary of the Army, and the Secretary of State, shall approve services for which the Corporation established under section 4 may charge a toll to vessels.

(b) MANAGEMENT.—

(1) BOARD OF DIRECTORS.—
(A) **Establishment.**—There is established the Board of Directors of the Corporation (hereinafter referred to as the “Board of Directors”), which shall be composed of 9 members as described in subparagraph (B).

(B) **Composition.**—The Board of Directors shall consist of—

(i) the Chair of the Board of Directors to be appointed and designated by the President of the United States;

(ii) the Administrator of the National Oceanic and Atmospheric Administration;

(iii) the Secretary of State;

(iv) the Secretary of Transportation;

(v) the Secretary of the Department in which the Coast Guard is operating; and

(vi) 4 senior representatives nominated by the Governor of Alaska and designated by the Secretary of Transportation, of whom—

(I) 1 shall represent the government of the State of Alaska;

(II) 1 shall represent the Alaska business community;
(III) I shall represent the Alaskan coastal and subsistence communities affected by the Corporation; and

(IV) I shall represent Alaskan maritime labor organizations.

(C) TERMS.—Each member of the Board of Directors described in subparagraph (B)(vi) shall serve for a 4-year term or until a new member is designated.

(D) MEETINGS.—The Board of Directors shall—

(i) meet at the call of the Chair, not less often than once every 90 days; and

(ii) conduct an annual meeting of the Corporation in the State of Alaska.

(E) FUNCTIONS.—The Board of Directors shall develop a set of policy recommendations regarding the facilities and infrastructure necessary to provide services related to safety and environmental protection and response for vessels transiting the Arctic Sea Routes, including—

(i) the establishment of rules of measurement for vessels and cargo on which
rates of charges or tolls for the services provided by the Corporation are based; and
(ii) all other matters which the Board of Directors determines to be relevant.

(2) ADMINISTRATOR.—The management of the Corporation shall be vested in an Administrator who shall be appointed by the Board of Directors with the approval of the Secretary of Transportation.

SEC. 6. FUNCTIONS OF THE ARCTIC SEAWAY DEVELOPMENT CORPORATION.

The functions of the Corporation are to provide services related to safety and environmental protection and response approved by the Secretary under section 5, including—

(1) constructing deep water port facilities in the Arctic to provide services necessary to manage and facilitate increased marine traffic, including cargo, tugs, commercial fuel bunkering, and icebreaker vessels in the Arctic;

(2) maintaining a relationship with east and west coast ports serving Arctic trade;

(3) collaborating with the State of Alaska and the United States Coast Guard in the provision of icebreaker services, including the provision of facilities, necessary for safe navigation of the Arctic;
(4) leasing private icebreakers and cooperating in offering services with icebreakers of other nations;

(5) where necessary, constructing places of refuge and aids to navigation within the Arctic;

(6) making charts showing the locations of places of refuge readily available to all vessels operating in the Arctic; and

(7) establishing strong ties among United States residents of the Arctic region, Arctic shippers, and the maritime insurance industry by creating a system of maritime transportation in the Arctic that prevents loss of life, vessels, and cargo, and increases reliability of shipping in the Arctic.

SEC. 7. GENERAL POWERS OF THE CORPORATION.

For the purpose of carrying out its functions under this Act, the Corporation—

(1) shall have succession in its corporate name;

(2) may adopt and use a corporate seal, which shall be judicially noticed;

(3) may sue and be sued in its corporate name;

(4) may adopt, amend, and repeal bylaws, rules, and regulations governing the manner in which its business may be conducted and the powers vested in it may be exercised;
(5) may make and carry out contracts or agreements as are necessary or advisable in the conduct of its business;

(6) shall be held to be an inhabitant and resident of the third judicial district of the State of Alaska within the meaning on the laws of the United States relating to the venue of civil suits;

(7) may appoint and fix compensation, in accordance with the provisions of subpart D of part III of title 5, United States Code, for such officers, attorneys, and employees as may be necessary for the conduct of its business, defining their authority and duties, and delegating to them such powers vested in the Corporation as the Administrator may determine;

(8) may acquire, by purchase, lease, property, and any interest therein, and may sell, lease, or otherwise dispose of such property, as the Administrator deems necessary for the conduct of its business;

(9) shall determine the character and necessity for its obligations and expenditures, and the manner in which they shall be incurred, allowed, and paid, subject to provisions of law specifically applicable to government corporations;
(10) may impose, retain and expend a toll to provide for safety and environmental protection and response services provided by the Corporation and to carry out services approved by the Secretary under section 5;

(11) may provide services and facilities, at reasonable prices, to vessels operating in the Arctic;

(12) if the United States portion of the revenue from the tolls charged to the users of any services provided under this section is applied solely towards the safety and environmental protection and response services to vessels operating on the Arctic Sea Routes as specified in paragraph (11), may participate with international entities in the ownership and operation of a tolling company, and may lease icebreakers, and enlist and return assets;

(13) shall be credited with amounts received from any of the activities authorized under paragraphs (10) and (11);

(14) shall publish charts of locations of places of refuge to be made readily available to all vessel voyaging north of the Bering Straight in the interest of ensuring vessel safety; and

(15) shall carry out other functions considered relevant by the Secretary of Transportation, in con-
junction with the Secretary of the Department in
which the Coast Guard is operating, the Secretary of
Defense acting through the Secretary of the Army,
and the Secretary of State.

SEC. 8. BONDS; ISSUANCE; MATURITY; REDEMPTION; IN-
TEREST; PURCHASE OF OBLIGATIONS BY THE
SECRETARY OF TREASURY.

(a) IN GENERAL.—To finance its activities, the Cor-
poration may issue revenue bonds payable from corporate
revenue to the Secretary of the Treasury.

(b) TOTAL VALUE.—The total value of all bonds
issued as described in subsection (a) shall not exceed a
sum that shall be determined by the Secretary of Trans-
portation in conjunction with the Secretary of the Treas-
ury.

(c) MATURITY DATES.—Bonds issued as described in
subsection (a) shall have maturity dates agreed upon by
the Corporation and the Secretary of the Treasury that
shall not be in excess of 50 years. The obligations on such
bonds may be redeemable at the option of the Corporation
before the maturity in such a manner as may be stipulated
in such obligations, but the obligations thus redeemed
shall not be refinanced by the Corporation.

(d) COORDINATION WITH TITLE 31.—
(1) Authority to use proceeds from sale of treasury securities.—For the purpose of purchasing obligations of the Corporation, the Secretary of the Treasury may use as a public debt transaction the proceeds from the sale by the Secretary of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under such chapter are extended to include such purchases.

(2) Treatment of transactions.—All purchases and sales by the Secretary of the Treasury of obligations issued by the Corporation under this section shall be treated as public debt transactions of the United States.

SEC. 9. REPORTS.

(a) In general.—Not later than 1 year after the outset of corporate activities of the Corporation, the Corporation shall submit a special report to Congress regarding its general operations.

(b) Additional reports.—

(1) New proposals.—In addition to the report described in subsection (a), the Corporation shall submit to Congress a special report whenever there is proposed a new feature, facility, design, or phase of the Corporation involving an estimated
value exceeding $1,000,000, that shall include jus-

tification for the new feature, facility, design, or

phase.

(2) Progress reports.—The Corporation

shall submit reports upon the request of the Board

of Directors, the President, or Congress regarding

progress of the Corporation, including financial re-

ports regarding expenses or revenues, extreme

weather patterns in the Arctic region, or reports as
determined necessary by Congress. Such reports

shall be submitted not later than 180 days after the
date of the initial request.

(3) Environmental impact reports.—The

Board of Directors may direct the Corporation to

compile detailed reports regarding the environmental

impact of increased marine shipping within the Arct-

ic region. Such reports shall be submitted not later

than 180 days after the date of the initial request

from the Board of Directors.

SEC. 10. THE ROLE OF THE DEPARTMENT OF STATE IN FA-

CILITATING INTERNATIONAL ENGAGEMENT.

(a) Promoting International Cooperation.—

The Secretary of State shall undertake a leadership role

in engaging in multilateral dialogues with member and ob-

server nations of the Arctic Council with the intention of
encouraging cooperation in providing coordinated services for shipping in the Arctic Ocean and its approaches. The Corporation shall encourage cooperative and collaborative relationships with the member and observer nations of the Arctic Council in order to establish fair and reasonable tolls and, where applicable, joint facilities, as described in section 7.

(b) INTERNATIONAL FEES AND TOLLS.—The Corporation is hereby authorized and instructed to waive fees and tolls as necessary for international cooperation.