

111TH CONGRESS
1ST SESSION

S. _____

To establish an Arctic Regional Citizens' Advisory Council to encourage citizen engagement and oversight of the effective and safe development of Arctic energy resources, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. BEGICH introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To establish an Arctic Regional Citizens' Advisory Council to encourage citizen engagement and oversight of the effective and safe development of Arctic energy resources, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Arctic Regional Citi-
5 zens' Advisory Council Act of 2009”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

1 (1) the Arctic of the United States is a produc-
2 tive and sensitive ecological and cultural habitat that
3 is of fundamental importance to the national inter-
4 est;

5 (2) the Arctic is experiencing significant change
6 in climate, ecosystems, and socioeconomic systems;

7 (3) as of the date of enactment of this Act, the
8 Arctic has produced over 15,000,000,000 barrels of
9 oil, and is believed to host substantial undeveloped
10 hydrocarbon and other energy resources both on-
11 shore and offshore;

12 (4) Arctic oil and gas operations have created
13 environmental and social controversies, including oil
14 spills that have resulted in the temporary closure of
15 oil fields;

16 (5) effective and safe development of Arctic en-
17 ergy resources is vital to national energy, environ-
18 mental, and Arctic policies and national security;

19 (6) effective citizen engagement and oversight
20 of energy operations has been found to be critical to
21 the proper functioning of industry, government, and
22 civil society;

23 (7) the Regional Citizens Advisory Councils es-
24 tablished for the Prince William Sound and Cook

1 Inlet in the State of Alaska by the Oil Pollution Act
2 of 1990 (33 U.S.C. 2701 et seq.) have—

3 (A) proven effective at increasing trust and
4 communication between citizens, the oil indus-
5 try, and government; and

6 (B) resulted in greater environmental safe-
7 guards for petroleum operations within the
8 scope of responsibility of the Councils; and

9 (8) it is in the national interest to establish an
10 Arctic Regional Citizen’s Advisory Council.

11 **SEC. 3. ARCTIC REGIONAL CITIZENS’ ADVISORY COUNCIL.**

12 (a) ESTABLISHMENT.—There is established an Arctic
13 Regional Citizens’ Advisory Council (referred to in this
14 Act as the “Council”).

15 (b) MEMBERSHIP.—

16 (1) IN GENERAL.—The Council shall be com-
17 posed of voting and nonvoting members in accord-
18 ance with this subsection.

19 (2) VOTING MEMBERS.—The Council shall have
20 20 voting members who shall be appointed by, and
21 serve exclusively at the pleasure of, the following
22 stakeholder groups:

23 (A) 2 members representing the North
24 Slope Borough, with—

1 (i) 1 member representing the Beau-
2 fort Sea area; and

3 (ii) 1 member representing the
4 Chukchi Sea area.

5 (B) 1 member representing each of—

6 (i) the Northwest Arctic Borough;

7 (ii) the St. Lawrence Island;

8 (iii) the Alaska Eskimo Whaling Com-
9 mission;

10 (iv) the Alaska Beluga Whale Com-
11 mittee;

12 (v) the Alaska Eskimo Walrus Com-
13 mission;

14 (vi) the Alaska Nanuq Commission;

15 (vii) the Ice Seal Commission;

16 (viii) the Village of Kaktovik;

17 (ix) the Village of Nuiqsut;

18 (x) the Village of Barrow;

19 (xi) the Village of Wainwright;

20 (xii) the Village of Point Lay;

21 (xiii) the Village of Point Hope;

22 (xiv) the Village of Kivalina; and

23 (xv) the Village of Kotzebue.

24 (C) 2 members representing environmental
25 organizations involved in the Arctic

1 (D) 1 member representing recreation and
2 tourism organizations involved in the Arctic.

3 (3) NONVOTING MEMBERS.—The Council shall
4 have 11 ex officio, nonvoting members who shall be
5 appointed by each of the following agencies:

6 (A) The National Marine Fisheries Service.

7 (B) The Minerals Management Service.

8 (C) The United States Fish and Wildlife
9 Service.

10 (D) The Bureau of Land Management.

11 (E) The Environmental Protection Agency.

12 (F) The Coast Guard.

13 (G) The Department of Defense.

14 (H) The Alaska Department of Environ-
15 mental Conservation.

16 (I) The Alaska Department of Natural Re-
17 sources.

18 (J) The Alaska Department of Fish and
19 Game.

20 (K) The Alaska Division of Homeland Se-
21 curity and Emergency Management.

22 (c) TERMS.—

23 (1) DURATION OF COUNCIL.—The term of the
24 Council shall continue throughout the lifetime of en-
25 ergy development activities in the Arctic.

1 (2) TERM OF APPOINTMENT.—Each voting
2 member of the Council shall be appointed by the
3 stakeholder group that appointed the member for a
4 term of 3 years.

5 (d) ADMINISTRATION.—

6 (1) IN GENERAL.—The Council shall select offi-
7 cers and staff and establish policies with regard to
8 internal operating procedures of the Council.

9 (2) SELF-GOVERNANCE.—After the initial orga-
10 nizational meeting hosted by the Secretary of the In-
11 terior, the Council shall be self-governing.

12 (e) CONFLICTS OF INTEREST.—No individual se-
13 lected as a voting member of the Council shall be engaged
14 in any activity that may conflict with the individual car-
15 rying out the function of the individual as a member of
16 the Council.

17 (f) DUTIES.—

18 (1) IN GENERAL.—The Council shall—

19 (A) provide advice and recommendations
20 on all aspects of energy development in the Arc-
21 tic of the United States, including environ-
22 mental assessment, permitting, exploration, de-
23 velopment, production, and transportation;

24 (B) monitor environmental impacts, con-
25 duct risk assessments, and recommend mitiga-

1 tion activities to minimize the impact of energy
2 development, as appropriate;

3 (C) monitor oil spill prevention and re-
4 sponse plans for the region, both onshore and
5 offshore;

6 (D) recommend standards and stipulations
7 for area deferrals and other site-specific regula-
8 tions that are intended to minimize the impact
9 of energy development;

10 (E) consult with other organizations on
11 matters relevant to the duties of the Council;
12 and

13 (F) meet quarterly and convene an annual
14 meeting.

15 (2) GEOGRAPHICAL SCOPE.—The Council shall
16 carry out the duties described in paragraph (1) in a
17 manner that covers all energy development activities
18 (including oil, gas, coal, methane hydrates, wind,
19 and wave energy development activities) in the Arc-
20 tic of the United States, both onshore and offshore.

21 (3) MEETINGS.—At the request of the Council,
22 to be eligible for a permit or other authorization
23 issued by a Federal agency to conduct energy devel-
24 opment activities in the Arctic, an owner or operator
25 of an energy development facility, activity, or oper-

1 ation in the Arctic shall participate in good faith in
2 a meeting of the Council.

3 (g) COMMITTEES.—The Council may create commit-
4 tees as necessary to carry out the duties of the Council,
5 including—

6 (1) a scientific or technical committee;

7 (2) an environmental monitoring committee;

8 and

9 (3) an oil spill prevention and response com-
10 mittee.

11 (h) RELATIONSHIP TO OTHER LAWS AND RELIEF.—

12 (1) LIABILITY.—The Council shall not be held
13 liable under Federal or State law for costs or dam-
14 ages as a result of providing advice or otherwise car-
15 rying out this section.

16 (2) RELIEF.—Any advice provided by a voting
17 member, program representative, or agent of the
18 Council shall not be grounds for estopping the inter-
19 ests represented by a voting member of the Council
20 from seeking damages or other appropriate relief.

21 (i) RESEARCH.—In carrying out this section, the
22 Council—

23 (1) may conduct scientific research; and

1 (2) shall review the scientific work carried out
2 by or on behalf of the energy industry or govern-
3 ment.

4 (j) RECOMMENDATIONS.—

5 (1) IN GENERAL.—All advice and recommenda-
6 tions of the Council shall be nonbinding.

7 (2) NOTICE.—

8 (A) FEDERAL AGENCIES.—If a Federal
9 agency does not accept, or significantly modifies
10 before adoption, a recommendation of the
11 Council, the Federal agency shall provide to the
12 Council in writing, not later than 2 weeks after
13 the decision of the agency, notice of the decision
14 of the agency, including a statement of reasons
15 for the rejection or modification of the rec-
16 ommendation by the agency.

17 (B) STATE AGENCIES.—If a State agency
18 does not accept, or significantly modifies before
19 adoption, a recommendation of the Council, the
20 State agency is encouraged to provide to the
21 Council in writing, not later than 2 weeks after
22 the decision of the agency, notice of the decision
23 of the agency, including a statement of reasons
24 for the rejection or modification of the rec-
25 ommendation by the agency.

1 (C) OWNERS OR OPERATORS.—If an owner
2 or operator of an energy development facility,
3 activity, or operation in the Arctic does not ac-
4 cept, or significantly modifies before adoption, a
5 recommendation of the Council, to be eligible
6 for a permit or other authorization issued by a
7 Federal agency to conduct energy development
8 activities in the Arctic, the owner or operator
9 shall provide to the Council in writing, not later
10 than 2 weeks after the decision of the owner or
11 operator, notice of the decision of the owner or
12 operator, including a statement of reasons for
13 the rejection or modification of the rec-
14 ommendation by the owner or operator.

15 (k) JUDICIAL REVIEW AND ARBITRATION.—

16 (1) IN GENERAL.—To carry out this section,
17 the Council may enter into a contract with an owner
18 or operator of an energy development facility, activ-
19 ity, or operation in the Arctic that includes an arbi-
20 tration clause.

21 (2) JUDICIAL REVIEW.—The arbitration clause
22 may allow either party to seek judicial review in ac-
23 cordance with the contract.

24 (l) LOCATION AND COMPENSATION.—

1 (1) LOCATION.—The Council shall be located in
2 the State of Alaska, with offices in locations selected
3 by the Council.

4 (2) COMPENSATION.—A member of the Council
5 shall not be compensated for the service of the mem-
6 ber on the Council, but shall be allowed travel ex-
7 penses, including per diem, at a rate established by
8 the Council of not to exceed the rates authorized for
9 employees of Federal agencies under sections 5702
10 and 5703 of title 5, United States Code.

11 (m) REPORT.—Not later than 3 years after the date
12 of establishment of the Council, the Comptroller General
13 of the United States shall—

14 (1) conduct an assessment of the effectiveness
15 of the Council in carrying out this section; and

16 (2) submit to Congress and the President a re-
17 port describing the results of the assessment, includ-
18 ing any recommendations for improvement.

19 (n) FUNDING.—To be eligible for a permit or other
20 authorization issued by a Federal agency to conduct en-
21 ergy development activities in the Arctic—

22 (1) an owner or operator of an energy develop-
23 ment facility, activity, or operation in the Arctic
24 shall provide funding for the operation of the Coun-
25 cil in accordance with paragraph (2); and

1 (2) owners and operators of energy development
2 facilities, activities, and operations in the Arctic
3 shall collectively—

4 (A) provide, on an annual basis, a min-
5 imum of \$5,000,000 to the Council to carry out
6 the duties of the Council; and

7 (B) enter into a contract with the Council
8 to carry out this section.