

BUSINESS MEETING

MEETING

OF THE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

UNITED STATES SENATE

ONE HUNDRED EIGHTEENTH CONGRESS

FIRST SESSION

—————
FEBRUARY 1, 2023
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COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

ONE HUNDRED EIGHTEENTH CONGRESS

FIRST SESSION

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SHELLEY MOORE CAPITO, West Virginia, *Ranking Member*

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BUSINESS MEETING

WEDNESDAY, FEBRUARY 1, 2023

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, DC.

The committee met, pursuant to notice, at 10:02 a.m., in room 406, Dirksen Senate Office Building, Hon. Thomas R. Carper (chairman of the committee) presiding.

Present: Senators Carper, Capito, Cardin, Whitehouse, Merkley, Markey, Kelly, Padilla, Fetterman, Lummis, Wicker, Sullivan, Mullin, Ricketts.

OPENING STATEMENT OF HON. THOMAS R. CARPER, U.S. SENATOR FROM THE STATE OF DELAWARE

Senator CARPER. I am pleased to call this business meeting of the Environment and Public Works Committee to order. I thank everyone for joining Senator Capito and me today for the first EPW committee meeting of the 118th Congress.

We have one person who is missing in action this morning, Mary Frances Repko. She is now working over in the Administration, someone who has been very much a part for over like a quarter of a century a key player in the House of Representatives, where Steny Hoyer worked for her for 10 years.

[Laughter.]

Senator CARPER. You think I am kidding. Just ask him.

She has gone on, I will not say to bigger and better things, but she will be a good partner with all of us. She has been succeeded by Courtney Taylor, sitting right by me over my left shoulder. If you have not had a chance to meet her, I think you are going to like her a lot. She is settling, and she and Adam have already started working together, which is a key to our success.

I want to begin by welcoming several of our newest members of our committee. And it says we have 10, so we can begin to vote any time. Thank you.

The newest members of our committee are Senator John Fetterman of Pennsylvania, I do not see John, although I saw him earlier today. And Markwayne Mullin of Oklahoma, Pete Ricketts of Nebraska. I hope I am not missing anybody. Welcome aboard. We were pleased to have a chance to meet with some of our new Republican colleagues yesterday.

Today we are going to vote on a couple of items, the committee's funding resolution and the rules that govern our committee's conduct. Senator Capito and I have agreed to begin voting as soon as

we have established a quorum. I understand we have established a quorum of 10 people.

At that time, we will hit the pause button with respect to our members' statements and proceed straight to the items on our agenda. After our voting concludes, I will happily recognize any additional members who may wish to speak.

I am going to go ahead and finish this statement, it is not very long. Before we do, I want to take a moment to reflect on this committee's incredible accomplishments from the last Congress, most of them bipartisan, and express my hope for building on that work this Congress with Senator Capito and colleagues on both sides of the aisle.

The 117th Congress was an extraordinarily productive session for the Congress as a whole, and especially for our committee. In 2021, we rolled up our sleeves, we got to work early on and we never stopped. We unanimously advanced two pieces of bipartisan infrastructure legislation out of our committee, our drinking water and wastewater legislation and our surface transportation and highway legislation which included the first-ever climate title.

Our bipartisan success with both of those became the foundation of the historic Bipartisan Infrastructure Law that became law in November 2021. We were able to build on this success by passing the Inflation Reduction Act, the most significant investment to combat climate change in our Nation's history.

In our committee's title alone, we invested more than \$40 billion in reducing climate pollution, and advancing environmental justice. This historic law, and I think this is an important point to keep in mind, we created with that legislation millions of good-paying jobs from coast to coast. We will be helping to build a stronger, cleaner economy.

We didn't stop there. In December 2022, just about 2 months ago, we continued our committee's triumphant streak of passing the Water Resources and Development Act, WRDA, on time and with bipartisan support. Reauthorization of the Army Corps of Engineers, the fifth, I think consecutive 2 years we have done that. This law is going to deliver on critical water resources projects from Delaware to California and across the Nation from Nebraska, through New Orleans and every place in between. All 50 States participated, we got great input from everybody, and we are delighted to have gotten such strong support from our colleagues and from the Administration.

As we begin this Congress, it is more important than ever to continue to work on a bipartisan basis to tackle some of the challenges facing the American people. I know that I have the great, maybe the best partner of any committee chair in the Senate, in Senator Capito and her staff, led by Adam, critical to many of our successes of our committee in the last Congress. I am confident that together we will continue to do great things, important things, for all of our States to protect our environment and to invest in our infrastructure and create a nurturing environment for job creation.

I believe this work includes watching over and helping guide the Biden Administration as they work to implement the historic laws that we passed in the last Congress, and includes taking action to address toxic chemicals like Per- and Polyfluoroalkyl Substances

(PFAS) that harm human health. It includes reauthorizing important programs that foster economic growth like the Economic Development Administration and Brownfields programs. And it includes improving our recycling systems just to name a few.

I look forward to working closely with Senator Capito, our subcommittee chairs, ranking members and all the members of this committee here on its best traditions of bipartisanship and hard work in the 118th Congress. With that all being said, I want to recognize the Ranking Member, Senator Capito, and again to thank her for being just a terrific partner, as we have done all these things together. Thank you.

**OPENING STATEMENT OF HON. SHELLY MOORE CAPITO,
U.S. SENATOR FROM THE STATE OF WEST VIRGINIA**

Senator CAPITO. Thank you, Mr. Chairman. I want to take just a brief moment, but I thank you for years past and this coming session as well. I always look forward to working with you, and welcome to Courtney as well to the committee.

We notched many wins last year, as you talked about. Since our last meeting, the Water Resources Development Act of 2022 was signed into law as part of the 2023 National Defense Authorization Act. So this is critical support for all of our States, certainly in West Virginia for floor control and prevention, to improve and expand drinking water, wastewater and stormwater projects, and identify future opportunities for additional economic development.

Passage of WRDA on a 2-year schedule ensures timely progress on projects that enable our Nation's commerce and restore our water resources and protect our communities. Last Congress, as you mentioned, the committee also developed the backbone of the Infrastructure Investment and Jobs Act, including the 5-year Surface Transportation Reauthorization legislation as well as strong drinking and wastewater infrastructure legislation. I think we are starting to see the results of that in a lot of our States. These successes will be hard to top, but I know we are going to try.

As we start the new Congress, I would like to join you in welcoming our new members on our Republican side, we are excited to have Senator Mullin and Senator Ricketts on EPW. Then-Congressman Mullin and I served together as members of the House Transportation and Infrastructure Committee, so it is nice to be reunited. And welcome, Senator Ricketts. I facetiously say you are joining that exclusive club of the former Governors club that are now Senators.

Senator CARPER. Would you yield for a moment? I call it the recovering Governors.

[Laughter.]

Senator CAPITO. I call it something else, but I couldn't say it in public.

[Laughter.]

Senator CARPER. Senator Capito, as you know, is the daughter of a former Governor of West Virginia. I start way too many sentences with these words: "When I was Governor of Delaware," so many have heard it more than they want to.

Senator CAPITO. Anyway, welcome, and we know that you have a passion for agriculture. I look forward to working with you on

issues such as oversight of Waters of the U.S. definition and other things.

On the Democrat side, we certainly welcome Senator Fetterman, and I look forward to getting to know him.

Our first order of business is to organize. Last Congress, the committee adopted special rules to reflect the 50–50 equally divided Senate consistent with past precedent from 2001. Chairman Carper and I agreed at that time we now support returning to the committee’s rules that have governed when one party had an out-right majority.

The committee will therefore vote to adopt a modernized version of these rules that were last applied in the 116th Congress. I support adoption of these rules, as well as the proposed committee budget that we are considering today.

Once we are organized, our work will begin in earnest to develop legislation in areas that are ripe for bipartisan attention, including advanced nuclear legislation, brownfields reauthorization and economic development legislation, just to name a few. And of course, the Congress will work to keep WRDA on the 2-year timeframe this committee has followed.

I will continue to scrutinize, as the Ranking Member, the Administration’s agenda and actions, and conduct robust oversight.

The Biden Administration has announced plans to move forward with many regulations that will create regulatory uncertainty, slow development of critical projects, and add cost. So we will be scrutinizing those as we move to the next session. I look forward to it.

Senator CARPER. Thank you, Senator Capito.

I see a quorum has been reached. We welcome everyone, one and all.

Moving now to our approve our committee’s budget resolution and our committee’s rule en bloc. Is there a second?

Senator CAPITO. Second.

Senator CARPER. Thank you for that second. All in favor say aye.

[Chorus of ayes.]

Senator CARPER. Opposed, say nay.

[No audible response.]

Senator CARPER. The ayes have it.

In the opinion of the Chair, we have approved the committee budget resolution, which will be reported favorably to the Senate, as well as our committee’s rules. The organizing portion of our meeting is concluded and I am now happy to recognize any member of our committee who would like to make a statement on the committee resolutions we just approved, or other matters, if you prefer.

With that, raise your hand and we will recognize you.

Senator CARDIN. Mr. Chairman, we are all so excited to be back together again. How do we do an encore from what we got done in the last Congress?

Senator CARPER. I do not know. If I live to be 100, I tell people back in Delaware, if I live to be 100, I do not know how we are going to do a better job done of getting stuff done than we did in the last Congress. It was just a terrific, terrific 2 years. But we will try. We will try. Everybody here had a role in that.

Anybody else with a statement or comment? With that, I will see you guys and gals on the floor. Thank you, Senator Capito.

Senator CAPITO. Thank you, Mr. Chairman.

Senator CARPER. We are adjourned.

[Whereupon, at 10:13 a.m., the business meeting was adjourned.]

Rules of Procedure

RULE 1. COMMITTEE MEETINGS IN GENERAL

(a) Regular Meeting Days: For purposes of complying with paragraph 3 of Senate Rule XXVI, the regular meeting day of the committee is the first and third Wednesday of each month at 10:00 a.m. If there is no business before the committee, the regular meeting shall be omitted.

(b) Additional Meetings: The chair may call additional meetings, after consulting with the ranking minority member. Subcommittee chairs may call meetings, with the concurrence of the chair, after consulting with the ranking minority members of the subcommittee and the committee.

(c) Presiding Officer:

(1) The chair shall preside at all meetings of the committee. If the chair is not present, the ranking majority member shall preside.

(2) Subcommittee chairs shall preside at all meetings of their subcommittees. If the subcommittee chair is not present, the ranking majority member of the subcommittee shall preside.

(3) Notwithstanding the rule prescribed by paragraphs (1) and (2), any member of the committee may preside at a hearing.

(d) Open Meetings: Meetings of the committee and subcommittees, including hearings and business meetings, are open to the public. A portion of a meeting may be closed to the public if the committee determines by roll call vote of a majority of the members present that the matters to be discussed or the testimony to be taken-

(1) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(2) relate solely to matters of committee staff personnel or internal staff management or procedure; or

(3) constitute any other grounds for closure under paragraph 5(b) of Senate Rule XXVI.

(e) Broadcasting:

(1) Public meetings of the committee or a subcommittee may be televised, broadcast, or recorded by a member of the Senate press gallery or an employee of the Senate.

(2) Any member of the Senate Press Gallery or employee of the Senate wishing to televise, broadcast, or record a committee meeting must notify the staff director or the staff director's designee by 5:00 p.m. the day before the meeting.

(3) During public meetings, any person using a camera, microphone, or other electronic equipment may not position or use the equipment in a way that interferes with the seating, vision, or hearing of committee members or staff on the dais, or with the orderly process of the meeting.

RULE 2. QUORUMS

- (a) Business Meetings: At committee business meetings, and for the purpose of approving the issuance of a subpoena or approving a committee resolution, seven members of the committee, at least two of whom are members of the minority party, constitute a quorum, except as provided in subsection (d).
- (b) Subcommittee Meetings: At subcommittee business meetings, a majority of the subcommittee members, at least one of whom is a member of the minority party, constitutes a quorum for conducting business.
- (c) Continuing Quorum: Once a quorum as prescribed in subsections (a) and (b) has been established, the committee or subcommittee may continue to conduct business.
- (d) Reporting: No measure or matter may be reported to the Senate by the committee unless a majority of committee members cast votes in person.
- (e) Hearings: One member constitutes a quorum for conducting a hearing.

RULE 3. HEARINGS

- (a) Announcements: Before the committee or a subcommittee holds a hearing, the chair of the committee or subcommittee shall make a public announcement and provide notice to members of the date, place, time, and subject matter of the hearing. The announcement and notice shall be issued at least one week in advance of the hearing, unless the chair of the committee or subcommittee, with the concurrence of the ranking minority member of the committee or subcommittee, determines that there is good cause to provide a shorter period, in which event the announcement and notice shall be issued at least twenty-four hours in advance of the hearing.
- (b) Statements of Witnesses:
- (1) A witness who is scheduled to testify at a hearing of the committee or a subcommittee shall file the written testimony by electronic mail at least 48 hours before the hearing. If a witness fails to comply with this requirement, the presiding officer may preclude the witness' testimony. This rule may be waived for field hearings, except for witnesses from the Federal Government.
- (2) Any witness planning to use at a hearing any exhibit such as a chart, graph, diagram, photo, map, slide, video, or model must submit by electronic mail or other means one identical copy of the exhibit (or representation of the exhibit in the case of a model) at least 48 hours before the hearing. Any exhibit described above that is not provided to the committee at least 48 hours prior to the hearing cannot be used for purpose of presenting testimony to the committee and will not be included in the hearing record.
- (3) The presiding officer at a hearing may have a witness confine the oral presentation to a summary of the written testimony.
- (4) Notwithstanding a request that a document be embargoed, any document that is to be discussed at a hearing, including, but not limited to, those produced by the General Accounting Office, Congressional Budget Office, Congressional Research Service, a Federal agency, an Inspector General, or a nongovernmental entity, shall be provided to all members of the committee at least 72 hours before the hearing.

RULE 4. BUSINESS MEETINGS: NOTICE AND FILING REQUIREMENTS

(a) Notice: The chair of the committee or the subcommittee shall provide notice, the agenda of business to be discussed, and the text of agenda items to members of the committee or subcommittee at least 72 hours before a business meeting. If the 72 hours falls over a weekend, all materials will be provided by close of business on Friday.

(b) Amendments: First-degree amendments must be filed with the chair of the committee or the subcommittee at least 24 hours before a business meeting. After the filing deadline, the chair shall promptly distribute all filed amendments to the members of the committee or subcommittee.

(c) Modifications: The chair of the committee or the subcommittee may modify the notice and filing requirements to meet special circumstances, with the concurrence of the ranking minority member of the committee or subcommittee.

RULE 5. BUSINESS MEETINGS: VOTING

(a) Proxy Voting:

(1) Proxy voting is allowed on all measures, amendments, resolutions, or other matters before the committee or a subcommittee.

(2) A member who is unable to attend a business meeting may submit a proxy vote on any matter, in writing, orally, or through personal instructions.

(3) A proxy given in writing is valid until revoked. A proxy given orally or by personal instructions is valid only on the day given.

(b) Subsequent Voting: Members who were not present at a business meeting and were unable to cast their votes by proxy may record their votes later, so long as they do so that same business day and their vote does not change the outcome.

(c) Public Announcement:

(1) Whenever the committee conducts a rollcall vote, the chair shall announce the results of the vote, including a tabulation of the votes cast in favor and the votes cast against the proposition by each member of the committee.

(2) Whenever the committee reports any measure or matter by rollcall vote, the report shall include a tabulation of the votes cast in favor of and the votes cast in opposition to the measure or matter by each member of the committee.

RULE 6. SUBCOMMITTEES

(a) Regularly Established Subcommittees: The committee has four subcommittees: Transportation and Infrastructure; Clean Air, Climate, and Nuclear Safety; Chemical Safety, Waste Management, Environmental Justice, and Regulatory Oversight; and Fisheries, Water, and Wildlife.

(b) Membership: The committee chair, after consulting with the ranking minority member, shall select members of the subcommittees.

RULE 7. STATUTORY RESPONSIBILITIES AND OTHER MATTERS

(a) Environmental Impact Statements: No project or legislation proposed by any executive branch agency may be approved or otherwise acted upon unless the committee has received a final environmental impact statement relative to it, in accordance with section 102(2)(C) of the National Environmental Policy Act, and the written comments of the Administrator of the Environmental Protection Agency, in accordance with section 309 of the Clean Air Act. This rule is not intended to broaden, narrow, or otherwise modify the class of projects or legislative proposals for which environmental impact statements are required under section 102(2)(C).

(b) Project Approvals:

(1) Whenever the committee authorizes a project under Public Law 89-298, the Rivers and Harbors Act of 1965; Public Law 83-566, the Watershed Protection and Flood Prevention Act; or Public Law 86-249, the Public Buildings Act of 1959, as amended; the chairman shall submit for printing in the Congressional Record, and the committee shall publish periodically as a committee print, a report that describes the project and the reasons for its approval, together with any dissenting or individual views.

(2) Proponents of a committee resolution shall submit appropriate evidence in favor of the resolution.

(c) Building Prospectuses:

(1) When the General Services Administration submits a prospectus, pursuant to section 7(a) of the Public Buildings Act of 1959, as amended, for construction (including construction of buildings for lease by the government), alteration and repair, or acquisition, the committee shall act with respect to the prospectus during the same session in which the prospectus is submitted.

A prospectus rejected by majority vote of the committee or not reported to the Senate during the session in which it was submitted shall be returned to the General Services Administration and must then be resubmitted in order to be considered by the committee during the next session of the Congress.

(2) A report of a building project survey submitted by the General Services Administration to the committee under section 11(b) of the Public Buildings Act of 1959, as amended, may not be considered by the committee as being a prospectus subject to approval by committee resolution in accordance with section 7(a) of that Act. A project described in the report may be considered for committee action only if it is submitted as a prospectus in accordance with section 7(a) and is subject to the provisions of paragraph (1) of this rule.

(d) Naming Public Facilities: The committee may not name a building, structure or facility for any living person, except former Presidents or former Vice Presidents of the United States, former Members of Congress over 70 years of age, former Justices of the United States Supreme Court over 70 years of age, or Federal judges who are fully retired and over 75 years of age or have taken senior status and are over 75 years of age.

RULE 8. AMENDING THE RULES

The rules may be added to, modified, amended, or suspended by vote of a majority of committee members at a business meeting if a quorum is present.

118TH CONGRESS
1ST SESSION

S. RES. _____

Authorizing expenditures by the Committee on Environment and Public Works.

IN THE SENATE OF THE UNITED STATES

Mr. CARPER, from the Committee on Environment and Public Works, reported the following original resolution; which was _____

RESOLUTION

Authorizing expenditures by the Committee on Environment and Public Works.

1 *Resolved,*

2 **SECTION 1. GENERAL AUTHORITY.**

3 In carrying out its powers, duties, and functions
4 under the Standing Rules of the Senate, in accordance
5 with its jurisdiction under rule XXV of the Standing Rules
6 of the Senate, including holding hearings, reporting such
7 hearings, and making investigations as authorized by
8 paragraphs 1 and 8 of rule XXVI of the Standing Rules
9 of the Senate, the Committee on Environment and Public
10 Works (in this resolution referred to as the "committee")

1 is authorized from March 1, 2023, through February 28,
2 2025, in its discretion, to—

3 (1) make expenditures from the contingent fund
4 of the Senate;

5 (2) employ personnel; and

6 (3) with the prior consent of the Government
7 department or agency concerned and the Committee
8 on Rules and Administration, use on a reimbursable
9 or nonreimbursable basis the services of personnel of
10 any such department or agency.

11 **SEC. 2. EXPENSES.**

12 (a) **EXPENSES FOR PERIOD ENDING SEPTEMBER 30,**
13 **2023.**—The expenses of the committee for the period
14 March 1, 2023, through September 30, 2023, under this
15 resolution shall not exceed \$3,911,674, of which amount—

16 (1) not to exceed \$4,666 may be expended for
17 the procurement of the services of individual consult-
18 ants, or organizations thereof (as authorized by sec-
19 tion 202(i) of the Legislative Reorganization Act of
20 1946 (2 U.S.C. 4301(i))); and

21 (2) not to exceed \$1,166 may be expended for
22 the training of the professional staff of the com-
23 mittee (under procedures specified by section 202(j)
24 of that Act).

1 (b) EXPENSES FOR FISCAL YEAR 2024 PERIOD.—
2 The expenses of the committee for the period October 1,
3 2023, through September 30, 2024, under this resolution
4 shall not exceed \$6,705,702, of which amount—

5 (1) not to exceed \$8,000 may be expended for
6 the procurement of the services of individual consult-
7 ants, or organizations thereof (as authorized by sec-
8 tion 202(i) of the Legislative Reorganization Act of
9 1946 (2 U.S.C. 4301(i))); and

10 (2) not to exceed \$2,000 may be expended for
11 the training of the professional staff of the com-
12 mittee (under procedures specified by section 202(j)
13 of that Act).

14 (c) EXPENSES FOR PERIOD ENDING FEBRUARY 28,
15 2025.—The expenses of the committee for the period Oc-
16 tober 1, 2024, through February 28, 2025, under this res-
17 olution shall not exceed \$2,794,044, of which amount—

18 (1) not to exceed \$3,334 may be expended for
19 the procurement of the services of individual consult-
20 ants, or organizations thereof (as authorized by sec-
21 tion 202(i) of the Legislative Reorganization Act of
22 1946 (2 U.S.C. 4301(i))); and

23 (2) not to exceed \$834 may be expended for the
24 training of the professional staff of the committee

1 (under procedures specified by section 202(j) of that
2 Act).

3 **SEC. 3. EXPENSES AND AGENCY CONTRIBUTIONS.**

4 (a) **EXPENSES OF THE COMMITTEE.—**

5 (1) **IN GENERAL.—**Except as provided in para-
6 graph (2), expenses of the committee under this res-
7 olution shall be paid from the contingent fund of the
8 Senate upon vouchers approved by the chairman of
9 the committee.

10 (2) **VOUCHERS NOT REQUIRED.—**Vouchers shall
11 not be required for—

12 (A) the disbursement of salaries of employ-
13 ees paid at an annual rate;

14 (B) the payment of telecommunications
15 provided by the Office of the Sergeant at Arms
16 and Doorkeeper;

17 (C) the payment of stationery supplies pur-
18 chased through the Keeper of the Stationery;

19 (D) payments to the Postmaster of the
20 Senate;

21 (E) the payment of metered charges on
22 copying equipment provided by the Office of the
23 Sergeant at Arms and Doorkeeper;

24 (F) the payment of Senate Recording and
25 Photographic Services; or

1 (G) the payment of franked and mass mail
2 costs by the Sergeant at Arms and Doorkeeper.

3 (b) AGENCY CONTRIBUTIONS.—There are authorized
4 to be paid from the appropriations account for “Expenses
5 of Inquiries and Investigations” of the Senate such sums
6 as may be necessary for agency contributions related to
7 the compensation of employees of the committee—

8 (1) for the period March 1, 2023, through Sep-
9 tember 30, 2023;

10 (2) for the period October 1, 2023, through
11 September 30, 2024; and

12 (3) for the period October 1, 2024, through
13 February 28, 2025.