

Table of Contents

U.S. Senate

Date: Wednesday, February 5, 2025

Committee on Environment
and Public Works

Washington, D.C.

STATEMENT OF:	PAGE:
THE HONORABLE SHELLEY MOORE CAPITO, A UNITED STATES SENATOR FROM THE STATE OF WEST VIRGINIA	3
THE HONORABLE SHELDON WHITEHOUSE, A UNITED STATES SENATOR FROM THE STATE OF RHODE ISLAND	7

BUSINESS MEETING

Wednesday, February 5, 2025

United States Senate

Committee on Environment and Public Works

Washington, D.C.

The committee met, pursuant to notice, at 10:34 a.m. in room 406, Dirksen Senate Office Building, the Honorable Shelley Moore Capito [chairman of the committee] presiding.

Present: Senators Capito, Whitehouse, Cramer, Lummis, Curtis, Graham, Sullivan, Ricketts, Wicker, Husted, Merkley, Kelly, Padilla, Blunt Rochester, Alsobrooks.

STATEMENT OF THE HONORABLE SHELLEY MOORE CAPITO, A UNITED STATES
SENATOR FROM THE STATE OF WEST VIRGINIA

Senator Capito. Good morning to everybody. Committee members, thank you for being here. I know there is a lot going on this morning, so I thought it would be best to go ahead and call this business meeting to order as quickly as we can, now that we have critical mass here.

I want to thank Ranking Member Whitehouse and his staff for working with me and my staff to bring two bipartisan bills before the committee today. I would also like to thank Senator Boozman for his leadership on the bipartisan recycling legislation we will consider.

The agenda for this meeting is to hold three votes, after Ranking Member Whitehouse and I give our opening remarks. The first vote will be to approve the committee rules and budget resolution. The next two votes will be to approve bills that previously passed this committee with unanimous support.

Today we will consider S. 347, the Brownfield Reauthorization Act of 2025. This bill, which passed unanimously out of the committee last Congress, will continue the critical work of the Environmental Protection Agency's Brownfields program, which I am sure is active in everyone's State.

Since first being authorized in 2002, the Brownfield

program has been a resounding success story for our economy and for the environment. Cleaning up abandoned and polluted brownfields is a powerful economic development tool and revitalizes rural and economically challenged communities where it is needed most.

Despite the program's many achievements, the rigorous and complex grant application process remains a key challenge. Rural and underserved communities lack the resources needed to compete with larger entities, putting them in an unfair position.

Our bill streamlines the application process to level that playing field. The legislation also modernizes the program's grant amounts to match current construction costs and project sizes, aligning them with the reality of doing business today.

I look forward to advancing the Brownfields Reauthorization Act of 2025 and urge my colleagues to join me in supporting this passage.

Next, we will consider S. 351, the Strategies to Eliminate Waste and Accelerate Recycling Development Act, called the STEWARD Act now. This legislation combines two separate recycling bills that we had last Congress that were passed unanimously, not just by this committee, but also unanimously out of the United States Senate.

The STEWARD Act reflects years of collaboration and input

from members of both chambers on both sides of the aisle.

These efforts result in a bipartisan agreement that nearly became law at the end of last Congress. The STEWARD Act that we will vote on today preserves that bipartisan language. For too many Americans, recycling remains out of reach, either because facilities don't exist in their communities or because the infrastructure to make recycling economically feasible is not in place. The STEWARD Act aims to close those gaps by ensuring that recycling services are available to all communities.

The bill also recognizes that to solve a problem, you need to measure and understand it first. The data provisions in the STEWARD Act will empower decision makers to track progress, identifies areas needed for improvement, and make informed decisions that will drive real change in our Nation's recycling system.

With these two bills, the committee can begin this Congress passing legislation through the well-established bipartisan tradition that has characterized so much of this committee's success. I urge my colleagues to support both of these bipartisan bills.

Also on the agenda, as I mentioned, is the necessary housekeeping items to run the committee, our rules and our budget. My staff reviewed the previous rules of the committee, and in coordination with Ranking Member Whitehouse's staff, we

have proposed some updates and streamlining edited for the rules.

The three main changes to the rules are providing for receiving sworn testimony from witnesses, having transcripts kept for business meetings, and setting a clear process for issuing subpoenas, either by agreement of the Chairman and the Ranking Member, or by a majority vote of the committee.

Passage of our committee funding resolution is necessary to ensure that we are funded to continue the good work of this committee into the 119th Congress. Our new budget will ensure that the committee has the resources to develop a Surface Transportation Reauthorization bill, work toward bipartisan solutions to fix our environmental review and permitting processes, reauthorize the Toxic Substances Control Act, and continue our vital work on oversight and implementation of the laws within the jurisdiction of the committee.

I urge my colleagues to support our committee rules and budget resolution for the 119th. I would like to join my Ranking Member with welcoming our new member from Ohio, Senator Husted. Welcome. We are happy to have you here.

With that, I will turn to the Ranking Member.

[The prepared statement of Senator Capito follows:]

STATEMENT OF THE HONORABLE SHELDON WHITEHOUSE, A UNITED STATES
SENATOR FROM THE STATE OF RHODE ISLAND

Senator Whitehouse. And we should also add our gratitude to Senator Moran for his two weeks of diligent service to the committee.

[Laughter.]

Senator Capito. Yes, he worked darned hard while he was here.

Senator Whitehouse. During his time, he made a real contribution.

First, I will thank Chair Capito for this business meeting and for moving two bipartisan bills quickly out of committee. I am particularly pleased to join the Chair in the STEWARD Act which should help address our recycling needs. We are living through a plastic pollution crisis. Every minute, a garbage truck worth of plastic gets dumped into our oceans.

In my home State of Rhode Island, there are more than 16 trillion pieces of microplastic in just the top two inches of the floor of Narraganset Bay. That is nearly 1,000 tons of plastic. Microplastics and nano plastics have been turning up in a lot of unwelcome places, like human blood, human hearts, human brains, human lungs, breast milk, and the placentas of pregnant women.

We are still learning how plastics affect human health.

But the effects potentially include cancer, diabetes, heart disease, reproductive disorders, and neurological impairment. Our Country is handling disposal of plastic waste abysmally. A National Academy study required by Save Our Seas 2.0, a bill that Senator Sullivan and I led, found that the U.S. is the world's biggest producer of plastic waste, yet the recycling rate for plastics in the U.S. lies somewhere between 5 percent and 9 percent. That blue bin is basically a fake.

In light of the vast scale of the plastic pollution crisis, I want to stress that the STEWARD Act is just one step toward solving a huge and complicated problem. There is a lot more we need to do to improve recycling rates and reduce the amount of plastic seeping into our bodies and fouling the environment.

I look forward to working with Chair Capito and other members of the committee, particularly including Senator Merkley and my long-time plastics counterpart, Senator Sullivan, to continue work on this bill once it gets out of committee before it gets to a vote on the Floor.

I would be remiss not to make clear, given the moment that we are in, that our ability to work together on future legislation will be highly dependent on whether President Trump and the Executive Branch respect the constitutional order and statutory law, and end their illegal funding freeze and the impoundment threats. The Appropriations Clause of the

Constitution is clear that Congress determines how much money the government will spend, and for what purposes.

With respect to already-obligated funds, Federal law and regulations require that those monies be disbursed absent a real showing of wrongdoing on the part of the recipient. As if it weren't bad enough that this lawless administration is usurping Congressional authority, it now appears it is ignoring the Judicial Branch as well. Not one, but two Federal courts have ordered the administration to end this illegal freeze. And yet, we are hearing across the Country of projects and programs that remain frozen.

In Rhode Island, our State government reports that monies awarded to it under EPA's Solar for All program remain frozen. Our transit agencies have zero clarity about whether monies awarded under various grant programs will come through. It appears that the administration has retreated behind a fog bank of non-communication and non-response so that there is no individual saying no who can be targeted with a court order while the funding remains frozen. That is not a fair way to treat courts and it is not the right way constitutionally to behave.

In Massachusetts, grant money awarded under an EPA Brownfields program, of all things, remains frozen. In New Mexico, monies awarded under EPA tribal grants to install

heating and air conditioning and prevent flooding at a school are still frozen. These are but a few of many examples. I am sure you have all heard examples from your States as well.

This is wrong and it is harming our constituents. Roads and bridges won't be fixed, endangering public safety. Programs to remove lead from drinking water and clean up heavily polluted communities won't move forward, endangering public health and economic development. Renewable energy won't be deployed, preventing improvements in air quality and ensuring that our constituents remain vulnerable to price shocks from volatile oil and gas markets.

This is also wrong because it represents a true breakdown of our constitutional system of government. I have worked with many of my Republican colleagues here on legislation. I have worked with the Chair on nuclear and carbon capture bills. I have worked with Senator Cramer on legislation to measure our carbon advantage in manufacturing. I have worked with Senator Wicker on anti-doping legislation. I have worked with Senator Graham on legislation targeting corrupt oligarchs. And as I mentioned, I have worked with Senator Sullivan on plastics legislation.

I am someone who wants to get things done, and I started this Congress excited about the bipartisan legislative possibilities for permitting, highways and transit, water

infrastructure, nuclear, carbon capture, geothermal and carbon tariffs, to name just a few.

So I do not say this lightly, and I believe I speak for my side of the dais and indeed the whole Democratic Caucus when I say that our appetite to move bipartisan legislation will disappear if this funding freeze does not end and the impoundment threats cease.

I appreciate very much that the Chair has publicly defended Congress' power of the purse, and stated that obligated funds should be disbursed. I further appreciate that she and her staff have worked with me and my staff to find a path forward on matters affecting my constituents.

I hope that all of us can agree that EPA and the other agencies we oversee must provide us answers. That was the opening question for Lee Zeldin as a matter of form in this committee. Well, on Friday, all the members of the committee wrote to Administrator Zeldin asking for answers about the funding freeze. My staff has since followed up twice with no response. We are waiting for answers; so are our constituents. We and they deserve better.

We are also writing to try to get more information about the effort to induce EPA employees to quit with an offer that has neither statutory authority nor appropriated funds to back it up. I think that is called fraud in the inducement.

There are Potemkin parliaments in autocratic regimes around the world. The Russian Duma comes to mind as a classic example. I think we can all agree that is an example to avoid.

This issue is bigger than Democrats versus Republicans. It goes to the core operations of our constitutional republic. Let us work together to end this illegal funding freeze and preserve our constitutional order.

Thank you, Madam Chair.

[The prepared statement of Senator Whitehouse follows:]

Senator Capito. Thank you, thanks to the Ranking Member.

I know that Senator Blunt Rochester wants to speak on the Brownfields bill, but if she would hold while we go ahead and take the votes, while we have critical mass here, that would be appreciated.

We have a quorum now present. So we are going to proceed to the voting portion of the business meeting. I thank you for that.

I will recognize any member who would like to speak after the voting is complete.

The Ranking Member and I have agreed to consider the committee rules package and the committee funding resolution en bloc. We have also agreed to consider the Capito Substitute Amendment to the committee funding resolution as adopted. The substitute was just a minor typo change.

I move to approve the committee funding resolution as amended by the substitute amendment, and the committee rules en bloc. Is there a second?

Senator Whitehouse. Second.

Senator Capito. All those in favor, say aye.

[Chorus of ayes.]

Senator Capito. All those opposed, no.

[No audible response.]

Senator Capito. In the opinion of the Chair, the ayes have

it. The committee rules are approved and the committee funding resolution will be favorably reported.

I note for the record that a quorum of the committee is present at the time of this vote.

I will now call up S. 347, the Brownfields Reauthorization Act of 2025.

[The text of S. 347 follows:]

Senator Capito. Does any Senator wish to be recognized to offer an amendment?

Senator Markey. Madam Chair?

Senator Capito. Senator Markey.

Senator Markey. Thank you, Madam Chair. I thank the Chair, and I appreciate your efforts to move forward these bills. But looking at the chaos in the Executive Branch caused by Elon Musk and his unelected and unqualified minions who are running amok in every one of the agencies tasked with executing the laws passed by Congress and delivering services to our constituents, I have to ask, what are we doing here?

Brownfields money was shut off unilaterally by the Trump Administration last week. The hard-working men and women who serve their communities by cleaning up toxic waste weren't sure if they would get a paycheck. The communities counting on the economic revival weren't sure if they would get stuck with toxic legacies for more decades to come, and all because the Trump Administration as managed under the thumb of the unelected billionaire Elon Musk illegally stopped programs to clean up our environment that were authorized and appropriated by Congress on a bipartisan basis.

Yet, we are here, working diligently on behalf of all those who elected us to office, to reauthorize and improve that Brownfields program, knowing that this administration might just

decide to ignore the law again tomorrow.

It is more than just Brownfields. The Environmental Protection Agency was forced to stop providing funding to programs authorized and appropriated by Congress to get toxic pollution like PFAS out of our drinking water, to fight air pollution, to help schools buy newer, healthier school buses, and to lower energy bills and make people's homes safer and more comfortable places to live.

Judges across the Country have stepped in against the Trump Administration's illegal funding cutoff, but the chaos continues, the uncertainty continues. Frankly, our constitutional crisis continues. Why are we working together, collaboratively, across the aisle, for people in all 50 States, to pass new laws if the Trump Administration is going to pick and choose which laws it will follow? What is the point of Congress which holds the power of the purse and all legislative powers under Article One of the Constitution if our laws can be ripped up on the whims of one single unelected billionaire?

I know my colleagues may not always agree with every law on the books, and I know that you have voted against some of those programs. I don't like all the laws we have on the books, either. But I don't think that means the Constitution doesn't apply to the laws I don't like or you don't like.

That is why I offered Markey Number 1 as the amendment to

this bipartisan Brownfields Reauthorization. It simply states a Sense of Congress that the President has to fully follow the law and that funding can't be withheld once authorized and appropriated by Congress. And if we pass laws on behalf of the American people, these laws should work on behalf of the American people.

I appreciate that Chair Capito and Ranking Member Whitehouse want the Environmental Protection Agency to function. I do believe you do. But we were able to get answers for our Brownfields program in Massachusetts so they can now keep operating, and thanks to our efforts, the court orders appear to be now working in unlocking funding for other programs that we passed in the Bipartisan Infrastructure Law and the Inflation Reduction Act. These are laws that came out of our committee, to clean up the air, the water, the land, in our communities.

We shouldn't need a Sense of Congress in order for laws passed by Congress to be executed by the President. I am not calling this amendment up for a vote today, because the law itself should be enough. But if the Trump Administration continues to illegally seize funding and unconstitutionally stop operating programs to clean up our communities and stop pollution, I simply don't see how we can let the committee work as if we are in business usual going forward. I cannot commit to that.

This is our first test: are we a nation of laws or not? Will the administration accept the fact that this committee has the ability to pass laws if they are signed by a President, any President, that they are the law of the land, and that an unelected billionaire cannot go in and arbitrarily select the parts of that law that are going to be enforced?

This is our first test. We are a nation of laws. We must pass that test before we can pass these bills. That is the sense that I have of where we are historically, because this is just one small subset of all of the laws that are on the books to protect all of the people.

It is not for one unelected billionaire to say, we are throwing entire agencies or entire sections of the law into a woodchipper because he doesn't like it. If he has individual objections, he should come. You have the majority; we should have the hearings. Then we can vote on whether we want to wipe out the Brownfields program or if we want to wipe out agency after agency.

But that is fraudulent. They should identify the fraud and then bring it to us, and we will vote on it. And much of that fraud I will vote with you to root out. But not if it is going to be futile for us to act and then to wonder whether or not it will be implemented.

So that is the moment in history which we are at, this

committee is a part of that. My Sense of Congress resolution is that these laws should be upheld is absolutely central to our own common understanding of who we are and what we represent in the system.

Thank you, Madam Chair.

[The prepared statement of Senator Markey follows:]

Senator Capito. Thank you, Senator Markey. I understand you have withdrawn your amendment; you are going to offer the amendment as stated.

Senator Markey. That is correct.

Senator Capito. I appreciate that, and I think that is why we are here, because the Brownfields program is important to all of us, as it was unanimously last year. There is very strong support.

My understanding, I think you alluded to this in your remarks, is that EPA as of Tuesday evening, the Brownfields program is not subject to the funding pause. I understand the concerns going forward. Our staffs have spoken about this issue. We have been working with you, I think for your particular project, to make sure it can move forward expeditiously.

I would also say in response to one of the comments the Ranking Member made, I too heard Administrator Zeldin say, as a former member of Congress, repeatedly, that he would respond to our letters, to our inquests, and to our requests for information. We had a lot of frustration over the last four years of all the unanswered inquiries that we had from our side of the aisle to the previous Administrator.

So I will be, in my next conversation with the Administrator, he hasn't been sworn in yet, to make sure that he

is much more responsive in a timely fashion. So I appreciate that.

With that, I am going to call up the Brownfields bill. I move that the committee report the bill - oh, if there are any other amendments? I don't think so.

Is there a second on the Brownfields bill?

Senator Whitehouse. Second.

Senator Capito. Wait a minute. Senator Sullivan, did you have something?

Senator Sullivan. Madam Chair, I just wanted to --

Senator Capito. Sorry about that.

Senator Wicker. Madam Chair, the Chair deferred on hearing Senator Blunt Rochester because there are other committees that need members present. The sense of the Chair was that we would vote and then hear debate.

Now, if we are going to have extended debate, we are going to have to notify other committees that members will --

Senator Capito. Okay, understanding that --

Senator Wicker. I propose that we go ahead and hear your motion.

Senator Capito. Okay, well, I called for amendments. Senator Markey had an amendment that he was going to put up and withdraw.

Senator Sullivan. Madam Chair, I will yield to my

colleague from Mississippi and I will talk about my amendments that I was going to put forward but I will withdraw and talk about them after the vote.

Senator Capito. Much appreciated.

So, we will move forward with it, thank you, Senator Wicker, for bringing that forward. We will move forward with the committee report. Is there a second?

Senator Whitehouse. Second.

Senator Capito. All those in favor, say aye.

[Chorus of ayes.]

Senator Capito. All those opposed, no.

[No audible response.]

Senator Capito. In the opinion of the Chair, the ayes have it. The legislation is favorably reported.

I note for the record that a quorum of the committee is present at the time of the vote.

Finally, I will call up S. 351, the Strategies to Eliminate Waste and Accelerate Recycling Deployment Act of 2025.

[The text of S. 351 follows:]

Senator Capito. I am going to hold --I don't believe we have any amendments, so I am going to --

Senator Merkley. I am going to offer an amendment and withdraw it. This amendment deals with the topic and specifically about reuse and refill.

Senator Capito. Could I just ask, interrupt just for a second? We are under a time constraint here, obviously, from, I think it is the Senator's committee, would you mind withdrawing?

Senator Merkley. I am offering to withdraw it right now, with the understanding that our teams have talked and that you will work with me to pursue this piece of the puzzle.

Senator Capito. I will work with you to pursue this, yes. Thank you. I appreciate that.

I move that the committee report the bill favorably. Is there a second?

Senator Whitehouse. Second.

Senator Capito. All those in favor, say aye.

[Chorus of ayes.]

Senator Capito. All opposed, say no.

[No audible response.]

Senator Capito. In the opinion of the Chair, the ayes have it. The legislation is favorably reported. I note for the record that a quorum of the committee is present at the time of the vote.

That concludes the voting portion of today's business meeting. Would any Senator like to be recognized? I will recognize Senator Blunt Rochester first.

Senator Blunt Rochester. Thank you, Madam Chair. And I want to thank my colleagues for working with us to pass this legislation to reauthorize the EPA program that helps breathe new life into communities across our Country.

As everyone here knows, the EPA Brownfields program empowers States, communities, and stakeholders to work together to address environmental contamination and repurpose land. When a brownfield is cleaned up, the redevelopment of that property brings new jobs and increased tax revenue.

A 2017 study concluded that cleaning up brownfields can generate up to \$97 million in additional tax revenue for local governments. These are great benefits that help improve our environment, our economy, our health and job opportunities. And I am proud to co-lead this bill with you, Senator Capito, as I take on the work of our former Chairman, Senator Tom Carper. I want to thank him for his leadership as well.

Today moves us a step closer to providing the needed funding to communities to help them repurpose, reimagine, and redevelop their neighborhoods. I would just say in closing that it was important for me to be on this committee because my State is the lowest mean elevation State in the Country. We have

challenges like others, we are urban, suburban, rural and coastal.

But one of the reasons why I really wanted to be on this committee, having worked with you on WRDA, is because of the bipartisan nature. I hope that this moment, which is an inflection point for all of us, that the historic nature of this committee continues to operate that way, in a bipartisan fashion.

I am concerned about usurping the power of congress, and I hope that we can stay unified in our efforts to make sure that these programs that we fund, that we appropriate, that we legislate, are actually implemented so that we can see the benefits that I refer to in my statement.

Thank you, and I yield back.

[The prepared statement of Senator Blunt Rochester follows:]

Senator Capito. Thank you very much.

I now recognize Senator Sullivan.

Senator Sullivan. Thank you, Madam Chair. I just wanted to briefly touch on the two amendments that I had, it was Sullivan 1 and Sullivan 2. I am hopeful we can move these in a bipartisan way.

This, Madam Chair, relates to Alaska Native lands in Alaska. The background is in 1971, Congress passed the biggest land claim settlement probably in the history of the world for Native people, 44 million acres of State and Federal land, that is I think bigger than California, went to the Native people of Alaska. They set up Alaska Native Corporations, they set up regional corporations. They own this land in fee simple. It is a very innovative program.

Unfortunately, a lot of the land that the Feds gave to the Native people of Alaska was polluted. Very, very polluted. We have legislated in this committee before, Senator Carper was a co-sponsor of some of my legislation, it has been very bipartisan. I am hoping that colleagues like Senator Whitehouse can join me in my amendments because the amendments just essentially make no sense.

The first amendment addresses a challenge, it is complicated, but in terms of brownfield programs to have cleanup on Alaska Native lands, Alaska Native Corporation lands that the

Federal Government gave to the Native people polluted, it says, it doesn't include petroleum that pollutes those lands. Why wouldn't it include petroleum? Remember, this is the Federal Government that polluted the lands, nobody else.

So we want an amendment that says, well, you can apply for brownfield funds that would of course include cleaning up petroleum sites that the Federal Government gave to the Native people of Alaska polluted with petroleum. That is just, it seems crazy that that is not in the law now. I would like to try to fix that. I think it would get bipartisan support.

That was Sullivan 1. Sullivan 2 is even crazier, which requires right now, fixing something crazy, which requires right now in the law, before you can start a cleanup of these contaminated lands in Alaska on Alaska Native lands, again, polluted by the Federal Government, you have to start with a NEPA process, a NEPA process to get permission to then go clean up contaminated lands.

I just think that is nuts, because it takes time, takes money. Everybody knows these are contaminated lands because of the Feds. We need a categorical exclusion saying, you don't need to do a NEPA process to start the cleanup of polluted lands for the Native people of my State.

So those are the two amendments. Very common sense. Senator Carper and I have worked together previously. CERCLA,

believe it or not was going to under the law say to the Native people, Defense gave you polluted lands, now you have to clean them up under CERCLA and you have to pay for it. What? We fixed that in this committee in a bipartisan way.

These are more common sense amendments that I am hoping we can get passed that bring fairness to just what we are all trying to do, is clean up these polluted Native lands in my State that were polluted by the Federal Government when they gave the lands to the Native people of Alaska in the first place. That is what we are trying to get done.

Thank you, Madam Chair. I appreciate that and look forward to working with both you and Senator Whitehouse on this.

Senator Capito. Thank you, Senator Sullivan. I, from my standpoint, want to work with you to try to work through these issues. It does sound very much common sense in my opinion. I will say, serving on this committee with you as I have for several years, I have learned so much about your history and your State's history and the unique challenges, we all have unique challenges in our States, but I would say you may have the most unique challenges.

So if we can keep working, thank you for being willing to keep this last bill on track. And we will help to address this petroleum-contaminated site.

Senator Whitehouse. I look forward to working with my

friend, Senator Sullivan, as well on this. I think the concern on our side is going to be make sure that if there is actual liability for that pollution on the part of the fossil fuel industry that they are paying an appropriate share to remedy what they did.

If it is only the Federal Government that has caused this, that is one thing. But if the Federal Government had fee, was polluted by the fossil industry, and then transferred it without settling up with the fossil fuel industry for that harm, they shouldn't be able to walk away from any accountability. I think that is the issue we will have to address.

Senator Sullivan. Thank you both.

Senator Capito. Thank you.

With no further business, the committee stands adjourned.

I want to thank everyone. Thank you.

[Whereupon, at 11:04 a.m., the hearing was adjourned.]