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U.S. Senate

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Committee on Environment
and Public Works

Washington, D.C.

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BUSINESS MEETING

Thursday, January 18, 2024

United States Senate

Committee on Environment and Public Works

Washington, D.C.

The committee met, pursuant to notice, at 10:32 a.m., in room 406, Dirksen Senate Office Building, the Honorable Thomas R. Carper [chairman of the committee] presiding.

Present: Senators Carper, Capito, Cardin, Merkley, Markey, Stabenow, Kelly, Fetterman, Cramer, Lummis, Ricketts, Boozman.

STATEMENT OF THE HONORABLE THOMAS R. CARPER, A UNITED STATES
SENATOR FROM THE STATE OF DELAWARE

Senator Carper. I call this business meeting to order. It is good to be with all of you today. We thank everyone for the work that they have done in anticipation of this markup, members and the staff as well.

Today we are going to be voting, as you know, on five pieces of legislation: the Providing Reliable, Objective, Verifiable Emissions Intensity and Transparency Act of 2023, or PROVE IT Act; also the Good Samaritan Remediation of Abandoned Hardrock Mines Act of 2023; the Reuben E. Lawson Federal Building Act of 2023; a bill to designate the United States Courthouse located at 500 West Pike Street in Clarksburg, West Virginia as the Irene M. Keeley United States Courthouse; and a bill to designate the Federal building located at 300 East Third Street in North Platte, Nebraska, as the Virginia Smith Federal Building.

Before we do this, though, I want to take a moment to briefly discuss these bills.

The first bill we will consider is better known as the PROVE IT Act. This bipartisan legislation was introduced by Senator Coons, my wingman from the First State, and by Senator Cramer, a respected member of our committee. It is also co-sponsored by a number of Democrat and Republican members of our committee.

The PROVE IT Act directs the Department of Energy to conduct a study that compares the climate impacts of making certain products in the United States with the climate impacts of making those same products in other countries.

As it turns out, because the United States is increasingly generating clean electricity and because many of our factories use modern methods and pollution controls, a lot of our domestic production has lower greenhouse gas emissions than the production in other countries. For example, if you make aluminum using electricity from renewable energy, the process is going to be a lot cleaner than making aluminum using electricity generated by burning coal. We also see this with other products such as steel, cement and concrete.

In a world where many countries are trying to cut greenhouse gas emissions to slow climate change, having cleaner products can also give us a competitive trade advantage. For example, the European Union has adopted a so-called carbon border adjustment mechanism, which will soon place a tariff on imports of products that were produced with relatively high greenhouse gas emissions.

But what is missing is solid data on the average greenhouse gas emissions in different countries. The PROVE IT Act aims to fill that data gap and make that information publicly available. We expect this information to boost the competitiveness of U.S.

manufacturing and help incentivize cleaner production in the United States and overseas so that this is a win-win for our climate and for our economy.

Next, we will consider the Good Samaritan Remediation of Abandoned Hardrock Mines Act of 2023, a bipartisan bill authored by Senators Heinrich and Risch. To date, more than one-quarter of all Senators have signed on to this bill, evenly split between Democrats and Republicans.

The Good Samaritan Act, known to some as Good Sam, aims to eliminate a longstanding barrier to the cleanup of abandoned mine sites. Federal agencies have identified over 140,000 remnants of abandoned hard rock mines, of which more than 60 percent pose safety and environmental hazards. Fortunately, organizations that have no legal or financial ties to these abandoned mines, true good Samaritans, want to volunteer to clean up these sites.

However, such organizations have limited options to do so under current law, since they would have to assume undue liability to perform such cleanups. Good Sam creates a pilot program that would allow a limited number of clean-up efforts to move forward with conditional liability protections.

Projects that qualify under the program must meet stringent environmental protection and public health requirements. All projects must also undergo a NEPA review, and owners or operators

of mines are not eligible for the program.

I want to thank our colleagues. I especially want to thank Senator Heinrich and Senator Risch for their efforts in crafting this legislation and working with our committee to improve it over the last two sessions. A number of members of our committee have co-sponsored this legislation and we thank you for your input to it.

Finally, we will vote on three bills naming buildings owned by the General Services Administration. We will vote on those bills en bloc.

The first of those three naming bills, sponsored by Senators Warner and Kaine of Virginia, would rename the Richard H. Poff Federal Building in Roanoke, Virginia, as the Reuben E. Lawson Federal Building. Mr. Lawson dedicated his life, as some of you may recall, his life and his career to fighting against segregation.

The second naming bill is sponsored by our Ranking Member, Senator Capito, along with Senator Manchin. This legislation would name the United States Courthouse located at 500 West Pike Street in Clarksburg, West Virginia, as the Irene M. Keeley United States Courthouse, after the first woman appointed as a judge for the U.S. District Court in the Northern District of West Virginia.

Finally, we have a bill from Senator Ricketts and Senator Fisher to name the Federal Building located at 300 East Third Street in North Platte, Nebraska, as the Virginia Smith Federal Building after Virginia Smith, the first woman elected to Congress in the State of Nebraska.

With that, let me recognize the Ranking Member, Senator Capito, for any opening remarks she would like to make. We are happy to be with you today.

[The prepared statement of Senator Carper follows:]

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

Senator Capito. Thank you, Chairman Carper, and thanks for holding our first business meeting of 2024.

I want to thank you and your staff for preparing the amendment in the nature of a substitute for S. 2781, the Good Samaritan Remediation Abandoned Hardrock Mines Act of 2023.

We had a productive hearing on this in 2022, on this very legislation which would, as the Chairman mentioned, establish a seven-year pilot program and permit 15 Good Samaritan remediation projects of abandoned mines on Federal, State, tribal and private lands. This commonsense program would provide the liability protection to good Samaritans that want to undertake important work to improve water quality. I support this bill.

Today, we will also be considering the three GSA naming bills, including one I am very proud to sponsor. S. 3570, which I introduced with Senator Manchin, would designate the Federal Courthouse on Pike Street in Clarksburg, West Virginia as the Irene M. Keeley United States Courthouse.

Judge Keeley earned her law degree from West Virginia University College of Law in 1980. President George H. W. Bush nominated her to the Federal bench in 1992, and she was confirmed by the Senate, get this, unanimously.

She went on to serve on the United States District Court of the Northern District of West Virginia for 30 years as the State's first female judge, including as chief judge for seven years. Judge Keeley took senior status in 2017 and inactive status in 2022.

Designation of the Clarksburg Federal Courthouse in her honor is a fitting tribute for the decades of dedication and service to her State and Country, all while being a very inspiring role model to young women and even older women, like me, and lawyers across West Virginia.

Today, we also consider Senator Ricketts' legislation to designate the Federal Building in North Platte, Nebraska, after former Congresswoman Virginia Smith, as well as legislation to redesignate the Federal Courthouse in Roanoke, Virginia. I urge my colleagues to support all of these bills.

However, I must express my opposition to the final bill on today's agenda, S. 1863, the PROVE IT Act. The committee has a well-established record over the last several years of finding common ground on climate legislation. I am proud of our work. The Chairman and I have partnered to advance such bills as the Future Act, the USE IT Act, the Nuclear Energy Innovation and Modernization Act, and the Infrastructure and Investment in Jobs Act.

Now, we are working together to get the ADVANCE Act, which is our nuclear bill, signed into law. We have also collaborated on many non-climate environmental bills that will have benefits for ecosystem teams across this Country, such as the Chesapeake WILD Act and the America's Conservation Enhancement Act.

These are conservation initiatives and aspirations that we share. I know that the Chairman wants to extend these as we move through the rest of the year. I have the greatest respect for the bill's sponsors, but this bill does not set up a climate policy I am in support of.

Advocates have named different reasons for supporting this bill: study emissions on behalf of Europe; prepare for carbon tariffs; or a facilitated domestic carbon tax. All three of these rationales concern me.

The substitute amendment we are considering today directs the Department of Energy to report to Congress on the average emissions of 22 industrial sectors and to compare them to those of other countries, from American allies to competitors, including China. It is vague on the authorities to be used by the department to conduct this review. It enables DOE to add additional categories at will and allows the agency to cite where and why they found a lack of data and to pressure companies to disclose.

While some have stated this effort is to align, and the Chairman alluded to this, with the European Union's CBAM or Carbon Border Adjustment Mechanism, PROVE IT goes beyond the categories covered by the EU for reasons unexplained. I think decades of history proves that America should not follow Europe's environmental and trade policies which have left the continent reeling in the face of supply disruptions due to Russia, dealing with higher energy and living costs, and suffering a less vibrant and competitive economy than we have right here in the United States.

The argument that the bill is just a study also does not resonate with me. We have a number of repositories of greenhouse gas emissions data already being collected by the Federal Government, specifically the EPA, which we have jurisdiction over, such as the Greenhouse Gas Inventory and the Greenhouse Gas Reporting Rule, something belatedly acknowledged in the amendment that I believe Senator Cramer will be offering in the nature of a substitute later on today.

I already find the redundant number of sources we have to be confusing. So before we consider establishing yet another greenhouse gas data set for study to burden American industry and potentially confuse policymakers and the public, we need to better understand the ones we already have.

Even if we did that, I still have concerns with establishing a carbon intensity study, in large part, because of what I have lived through as the lead Republican opposing the EPW portions of the Inflation Reduction Act.

Even if we were to all agree that providing a study at this point is the only goal and not the imposition of a carbon tax, or tariff, we have seen through the Inflation Reduction Act how innocuous data collection responsibilities can later be weaponized to implement damaging partisan policies, including taxes.

I will give you an example. Subpart W in the Methane Emissions Reduction Program, also known as MERP, is one such cautionary tale. Through the Inflation Reduction Act, Democrats transformed Subpart W from a reporting requirement to a hammer used to nail a tax on American oil and gas industry to be paid by the American consumers. The EPA was directed to update Subpart W, a reporting framework that has existed for over a decade, and then use it to set the tax.

I hear regularly from stakeholders now, even ones who did not oppose the MERP at the time of its enactment, who say the fee needs to be repealed because the EPA has now revised Subpart W and inflated the emissions reported under that program to impose an unjustified fee. All I keep thinking is, I tried to tell you

that at the time.

I see the exact thing happening here with the study and reports generated by the PROVE IT Act. I noticed that the revised bill now includes a clarification that states that nothing in the PROVE IT Act itself directly authorizes new taxes or fees.

But that provision does not prevent Congress from imposing such a tax or tariff through future legislation, even in a partisan fashion, through the reconciliation process such as the IRA using the studies and reports developed by the PROVE IT Act. We saw how, once a reporting framework exists, Democrats used that framework to impose the MERP without running up against the Byrd Rule. Believe me, we fought hard with the parliamentarians and didn't prevail. We also saw that prior savings clauses were overridden as part of the Byrd Rule and other reconciling provisions in the EPW title of the Inflation Reduction Act. So my question is, savings clauses are ineffective.

I will offer a couple amendments to try to cure what I think are some of the worst issues with the legislation but fear that its initial premise, construction and significant potential costs for American households and businesses require me to oppose it.

Thank you, Mr. Chairman.

[The prepared statement of Senator Capito follows:]

Senator Carper. I thank you as well.

I see that a quorum is present, so let's go ahead and get started.

First, I want to call up S. 1863, the PROVE IT Act of 2023 and the Cramer amendment in the nature of a substitute to this legislation numbered Cramer 1. The amendment in the nature of a substitute makes several minor changes agreed to on a bipartisan basis with the bill's sponsors.

[The text of S. 1863 and Cramer Amendment 1 follows:]

Senator Carper. As the Ranking Member and I have agreed, I now ask unanimous consent to use the amendment in the nature of a substitute as the base text for the purpose of the business meeting. Is there any objection?

[No audible response.]

Senator Carper. Hearing no objection, the committee will use the Cramer substitute as the base text for the purpose of this committee's action on the PROVE IT Act. Does any Senator wish to offer an amendment to this legislation?

Before we do that, would you like to make some remarks?

Senator Cramer. Yes, I would like to make some remarks on the amendment.

Senator Carper. Please do. Go right ahead.

Senator Cramer. Thank you, Mr. Chairman and Ranking Member, for having this markup today.

A lot has been said about the PROVE IT Act, but I want to clarify a few things as to what the PROVE IT Act does and importantly, what it does not do. We can make up all kinds of things that are possible that aren't related to this, but PROVE IT doesn't authorize many of those things.

I was recently asked if PROVE IT would lead to EPA implementing the carbon tax. Now, if that was the bill, I would vote no, obviously. Thankfully, it is not the bill. But there

are a lot of things wrong with that supposition.

First of all, the EPA isn't tasked with this study and neither this committee nor that agency handles tax policy. But it is indicative of the noise that surrounds the actual substance of the legislation. So I want to reiterate what is in the bill.

First, contrary to the Ranking Member's comments about this bill being a "road to a carbon tax," I want to read the actual text. We garnered, by the way, authorities which aren't fuzzy and prohibitions which are clear as can be. "Nothing in this Act provides any new authority to any Federal agency to impose, collect or enforce a greenhouse gas emissions tax, fee, duty, price or charge." Right? So nothing empowers any agency to do any of these things.

If it were a tax, it would be in Chairman Carper's other committee, the Finance Committee, as I said earlier. I think it goes without saying that you would be hard pressed to find two States more opposed to a carbon tax than West Virginia and North Dakota, believe me. I have a long record of opposing a carbon tax.

So this insinuation that I would be pushing a tax on any of our manufacturers and producers is, well, it is laughable.

But even if you were trying to correlate PROVE IT to a carbon tax, I want to read something that supporters of a carbon

tax have said about PROVE IT. They have said, "A domestic carbon fee would be applied on fuels when they enter the economy. The PROVE IT Act is an analysis of average product level emissions intensity data. This data is irrelevant in implementing a U.S. carbon fee." Those are advocates of a carbon fee.

I am starting to talk the people on the other side here out of this, I am afraid. I had better be careful.

[Laughter.]

Senator Cramer. Similarly, there is support for some sort of carbon tariff to level the playing field for American workers while punishing polluting countries like China and Russia that undercut them.

But again, that is not today's bill. If it were, it would be in the Finance Committee. But I find it concerning that some keep talking about carbon board adjustment as if it is theoretical. In fact, I think one of the things that the Ranking Member said is that some people say that PROVE IT is to accommodate the European Union's carbon tax. It is not to accommodate it; it is to defend against it.

The EU is already collecting data to implement their CBAM in 2026 and the United Kingdom has announced theirs will go into effect one year later. So this is not theoretical; this is real. These are our closest allies preparing a tax, a tariff against

products manufactured in the United States. Multiple American products will be charged a tariff based on math that the Europeans use. They are going to use it on us, not to help us.

PROVE IT is an opportunity to make sure we collect our own data rather than subject ourselves to whatever Europe hits us with. I don't want the steel, aluminum, hydrogen fertilizer producers that we represent to be hit by a European tariff without us having the data to rebut it.

The Department of Energy has a good record in this area. For example, this is a very specific and personal example. In 2019, when I got to know the French Ambassador really well, the French utility company, Engie, which is partially owned by the French government, canceled a contract for U.S. LNG claiming it was dirty. Imagine that.

They had a large contract for United States liquid natural gas, but canceled it because they claimed it was dirty and instead, bought that gas from Russia, from Russia, 40 percent greater carbon intensity than our gas. Then of course, Vladimir Putin attacked Ukraine and Engie got religion and came to the realization they would rather have the clean stuff from the United States.

This is why Senator Coons and I tasked DOE with doing the study worked on by DOE and others to show that the United States

has a distinct carbon advantage over our competitors. DOE should compile this data from existing sources, by the way. Nobody is being forced to provide new information. That is prohibited in the bill. DOE should compile this data to prove our American excellence.

Ultimately, this is about giving credit where credit is due. That is to the American workers who dutifully abide by the highest standards in the world. We need to make sure their compliance isn't undercut by foreign competitors who have little to no environmental standards, never mind the equally egregious human and worker rights records of some of these players.

Finally, PROVE IT illustrates the high tax American businesses already pay in the form of compliance costs. That is why this bill has such broad support, because American businesses have made great strides at great cost in becoming the cleanest in the world. Their innovation and investments should be accounted for and we should use this data to make sure their interests are protected.

Mr. Chairman, sometimes people question why a Senator from North Dakota, an energy State like ours, would support PROVE IT. I get it. Some people like cheap stuff from China and are perfectly comfortable pretending there is nothing wrong with the communist regime abusing its citizens and environment to win an

economic war with the United States.

But if the goal is to lessen global emissions, then the answer has to be to produce and manufacture more here in the United States of America, in the cleanest country. I will take Bakken and Alaskan North Slope crude any day over the dirtiest product coming out of Venezuela or Russia. The same goes for mining in Wyoming and Arizona and steel and aluminum production in Arkansas and West Virginia.

So let's put the data together to make sure we stand up for the workers and businesses that we represent. I urge a yes vote.

Thank you, Mr. Chairman.

Senator Carper. Thank you for those comments. Thanks very much to you and your staff for all the work that you have done on this on this measure.

Does any Senator wish to offer an amendment to this legislation?

Senator Capito. I have an amendment at the desk.

Senator Carper. Senator Capito, you are recognized.

Senator Capito. Thank you. This is Amendment No. 1.

First of all, I want to say to my friend from North Dakota, yes, I know you don't want a border tax. I get that. I mean, you don't want a carbon tax. I get that. If I inferred that in my statement, which I do not think I did, but if that is what you

took away from it, I understand where you are on that.

You have emphasized time and again, collect our own data. Well, that is the purpose of this amendment. It addresses some of the concerns I have and I think it consolidates some of the emphasis that you put on yours.

It replaces the text of the bill with the direction to the EPA, which already has an inventory of U.S. greenhouse gas emissions and sinks, the six core categories that the PROVE IT Act contains. But I add in the six core ones that are not currently being gathered by EPA to make it the same as what is in the PROVE IT Act. These categories are lithium ion batteries, hydrogen, uranium, critical minerals, solar panels and wind turbines.

The other materials covered in PROVE IT from oil and gas to cement to iron and steel to plastics to fertilizers are already addressed by the EPA in its annual inventory, which is now referenced in the amended underlying text.

The EPA is the agency charged with dealing with greenhouse gas emissions. It has published the annual inventory for years, presenting emission estimates dating back to 1990.

I may be skeptical about EPA's data collection and modeling, but I do think because of what has happened with Subpart W, but before we start layering on another bureaucracy through brand new

efforts and bringing in new agencies like DOE, I think we need to already work with the ongoing data collection that goes on at EPA.

As I said, when I look at existing data sources, and I am not sure I am being clear here, but what I am saying let us take it out of DOE. This amendment takes it out of DOE, puts it in the existing inventory that is very similar to what they are asking in the PROVE IT Act, adds in what is not already in the PROVE IT Act and that inventory would stand.

This inventory that is done at the EPA is done and was established to be in compliance with the United Nations Framework Convention on Climate Change and is compliant with international standards.

That is my amendment and I ask for support.

[The text of the amendment offered by Senator Capito follows:]

Senator Carper. Thank you for that.

Senator Capito. May I interject one other thing that my amendment does? I am sorry.

Senator Carper. Sure.

Senator Caito. My amendment also says that I have language in there that has a savings clause that does prevent the data's use for regulation and a budgetary point of order that would move it. If the data were to be used to put a carbon tax in, it would have to be at a 60 vote threshold rather than a 50 that is normal in a reconciliation measure.

Thank you.

Senator Carper. Thank you.

I think our colleagues know I have great respect for our colleague from West Virginia. We work very hard every day to find consensus on all kinds of issues.

Today, I am afraid I am going to have to oppose her amendment. The amendment would replace the text of the PROVE IT Act with a bill that would block virtually any EPA regulation of greenhouse gas emissions. It would also establish a new point of order for the Senate Floor prohibiting any revenue measure based on the greenhouse gas emissions associated with commodities or with products.

We know that the climate crisis is causing tremendous harm

to our communities and our economy today and to our planet. It is getting worse and it is getting worse more quickly. The last thing Congress ought to be doing is blocking commonsense measures to reduce carbon pollution.

I would urge my colleagues to oppose this amendment.

Does any other Senator wish to speak on Senator Capito's first amendment? Anybody else?

[No audible response.]

Senator Carper. Seeing no further speakers, the question is on approving the amendment. A roll call is requested. Is there a second?

Senator Cardin. Second.

Senator Carper. It has been moved and seconded. The Clerk will call the roll.

The Clerk. Mr. Boozman?

Senator Boozman. No.

The Clerk. Mrs. Capito?

Senator Capito. Yes.

The Clerk. Mr. Cardin?

Senator Cardin. No.

The Clerk. Mr. Cramer?

Senator Capito. No.

The Clerk. Mr. Fetterman?

Senator Fetterman. No.

The Clerk. Mr. Graham?

Senator Capito. No, by proxy.

The Clerk. Mr. Kelly?

Senator Kelly. No.

The Clerk. Ms. Lummis?

Senator Lummis. Aye.

The Clerk. Mr. Markey?

Senator Markey. No.

The Clerk. Mr. Merkley?

Senator Merkley. No.

The Clerk. Mr. Mullin?

Senator Capito. Yes, by proxy.

The Clerk. Mr. Padilla?

Senator Carper. No, by proxy.

The Clerk. Mr. Ricketts?

Senator Ricketts. Yes.

The Clerk. Mr. Sanders?

Senator Carper. No, by proxy.

The Clerk. Ms. Stabenow?

Senator Stabenow. No.

The Clerk. Mr. Sullivan?

Senator Capito. Yes, by proxy.

The Clerk. Mr. Whitehouse?

Senator Carper. No, by proxy.

The Clerk. Mr. Wicker?

Senator Capito. Yes, by proxy.

The Clerk. Mr. Chairman?

Senator Carper. No.

The Clerk. Mr. Chairman, can we get Mr. Mullin's vote once more, please?

Senator Capito. Mr. Mullin is yes, by proxy.

Senator Carper. Is the Clerk prepared to report the roll call totals?

The Clerk. Yes, sir, the yeas 6, the nays are 13.

Senator Carper. The amendment is not adopted.

Does any Senator wish to offer another amendment?

Senator Capito. I have another amendment.

Senator Carper. Senator Capito, go ahead.

Senator Capito. Thank you. It is very simple. It goes to what my first, one of my concerns I had in my first amendment. I am going to try it again.

I expressed my concern about the PROVE IT Act being abused in a future reconciliation package to ram through a domestic carbon tax in a partisan reconciliation exercise.

The clarification in the revised bill I think is a bit

insufficient. So my amendment would raise a budgetary point of order against the use of PROVE IT as the basis for any revenue measure such as a CBAM or domestic carbon tax.

This point of order could only be waived by a vote of 60 or more Senators, not just a slim partisan majority. Any effort to use a bipartisan bill for such a purpose should require a robust bipartisan vote. I urge support.

[The text of the amendment offered by Senator Capito follows:]

Senator Carper. Again, I must regretfully oppose my valued colleague's amendment. Like the prior amendment, this amendment establishes a new point of order for the Senate Floor that prohibits any revenue measure based on the greenhouse gas emissions associated with commodities or products.

I understand that some outside groups are claiming that the PROVE IT Act would lead to establishment of a carbon tax, but as we have heard, that is just not correct. The bill itself states that it does not provide any new authority for any type of fee on greenhouse gas emissions. This amendment is, I am afraid, a poison pill that would force me and many of my colleagues to vote against this bill if the amendments were adopted. So I am going to vote no and ask my colleagues to do that as well.

Does any other Senator wish to comment on Senator Capito's second amendment?

Senator Cramer. If I could, Mr. Chairman.

Senator Carper. Senator Cramer?

Senator Cramer. Mr. Chairman, just quickly.

I am going to support Senator Capito's second amendment because I frankly don't think it really changes a lot. It does clarify, it emphasizes perhaps the finer point that reconciliation should not be able to use this data. The fact of the matter is that the substitute amendment we are actually

dealing with now already does that in the broader sense that it prohibits any agency from using any of this data for any type of a tax or regulation.

In my view, it is just a narrower emphasis on the specific issue of reconciliation, so I am supporting it.

Senator Carper. All right. Thank you.

Are there other Senators wishing to comment on this amendment?

[No audible response.]

Senator Carper. Hearing no further speakers, the question is on the amendment. A roll call vote has been requested. Is there a second?

Senator Cardin. Second.

Senator Carper. It has been moved and seconded. The Clerk will call the roll.

The Clerk. Mr. Boozman?

Senator Boozman. Aye.

The Clerk. Mrs. Capito?

Senator Capito. Aye.

The Clerk. Mr. Cardin?

Senator Cardin. No.

The Clerk. Mr. Cramer?

Senator Capito. Aye.

The Clerk. Mr. Fetterman?

Senator Fetterman. No.

The Clerk. Mr. Graham?

Senator Capito. Yes, by proxy.

The Clerk. Mr. Kelly?

Senator Kelly. No.

The Clerk. Ms. Lummis?

Senator Lummis. Aye.

The Clerk. Mr. Markey?

Senator Markey. No.

The Clerk. Mr. Merkley?

Senator Merkley. No.

The Clerk. Mr. Mullin?

Senator Capito. Yes, by proxy.

The Clerk. Mr. Padilla?

Senator Carper. No, by proxy.

The Clerk. Mr. Ricketts?

Senator Ricketts. Aye.

The Clerk. Mr. Sanders?

Senator Carper. No, by proxy.

The Clerk. Ms. Stabenow?

Senator Stabenow. No.

The Clerk. Mr. Sullivan?

Senator Capito. Yes, by proxy.

The Clerk. Mr. Whitehouse?

Senator Carper. No, by proxy.

The Clerk. Mr. Wicker?

Senator Capito. Yes, by proxy.

The Clerk. Mr. Chairman?

Senator Carper. No.

Is the Clerk ready to report the yeas and nays?

The Clerk. Yes, sir, Mr. Chairman, the yeas are 9, the nays are 10.

Senator Carper. I understand the yeas are 9 and the nays are 10. In that case, the amendment is not adopted.

Does any Senator wish to offer another amendment to this legislation?

Senator Ricketts. Yes, Mr. Chairman.

Senator Carper. Senator Ricketts, go ahead.

Senator Ricketts. I would like to call up Ricketts Amendment No. 1.

I have several concerns with this bill. Before I get into that, you know, Mr. Chairman, I really like being on this committee. One of the reasons I like being on this committee is that we get to talk about biofuels. That is what my amendment talks about.

First of all, I think, just in general, one of the things we ought to do in the Legislative Branch is be more prescriptive with the Executive Branch. As a former governor, I know the Executive Branch will not do things unless the Legislative Branch specifically tells them what to do if they don't want to do it. Mr. Chairman, I suspect you recall the same sort of thing from being a former Executive Branch member.

So, one of the things I think we ought to be doing is again being more prescriptive. Of course, I don't have to explain to you all the dangers of using partial or unsound science as we walk through these processes.

What my amendment does is determine that the Department of Energy's own Argonne National Laboratory's Greenhouse Gases Regulated Emissions, Energy Use and Transportation, also known as the GREET Model, be used as the methodology when determining greenhouse gas emissions, specifically when talking about biofuels.

The GREET Model considers the entire life cycle of energy sources and transportation fuels, it accounts for emissions from production, distribution, and consumption, providing a more accurate representation of the different environmental impacts of different fuels.

GREET incorporates a wide range of data inputs, including

energy consumption, emission factors and technological parameters. This comprehensive dataset ensures that the model captures the nuances of various transportation technologies and fuel sources.

GREET has gained acceptance across industries as a reliable tool for assessing the environmental performance of transportation fuels. Its adoption by both public and private entities enhances its status as a standard for emissions modeling.

GREET has undergone rigorous peer review processes and its methodologies have been validated through scientific studies. The model's credibility is strengthened by the involvement of experts in continuous refinement based upon feedback from the scientific community.

I urge the committee to support my amendment and look forward to working with you on this issue in the future. I would just say I think that this ought to be done not just for the transportation fuels, but every category that we have, we should come up with a specific model that we instruct the Department of Energy to use to calculate the emissions.

With that, thank you.

[The text of the amendment offered by Senator Ricketts follows:]

Senator Carper. Thanks for your amendment.

I am going to oppose the amendment but I want to say you have been a valued member of this committee from day one and a faithful attendee. I appreciate that, and I know Senator Capito does as well.

I can't support you on this amendment but let me say, the PROVE IT Act directs DOE to gather data and develop robust estimates for the greenhouse gas intensities of the specified products. I understand that the GREET Model referred to in Senator Ricketts' amendment is a DOE model. Nothing in the underlying bill prevents DOE from using it, but I don't think we should require the Department of Energy to use a particular model by law here.

If we want to convince other nations to use our estimates, we need to make sure the estimation methodology is on an absolutely solid technical ground. I think Congress does that best by letting the technical experts make those decisions.

I am also concerned that specifying a particular model may undermine support for this bill among those who may not agree with that model. I am going to have to urge our colleagues to vote no on this amendment.

Does any other member wish to speak on Senator Ricketts' amendment?

[No audible response.]

Senator Carper. There are no more speakers on this amendment. Let me say the question is on the amendment. A roll call vote has been requested. Is there a second?

Senator Cardin. Second.

Senator Carper. The Clerk will call the roll.

The Clerk. Mr. Boozman?

Senator Boozman. Aye.

The Clerk. Mrs. Capito?

Senator Capito. Aye.

The Clerk. Mr. Cardin?

Senator Cardin. No.

The Clerk. Mr. Cramer?

Senator Capito. Aye.

The Clerk. Mr. Fetterman?

Senator Fetterman. No.

The Clerk. Mr. Graham?

Senator Capito. No, by proxy.

The Clerk. Mr. Kelly?

Senator Kelly. No.

The Clerk. Ms. Lummis?

Senator Lummis. Aye.

The Clerk. Mr. Markey?

Senator Markey. No.

The Clerk. Mr. Merkley?

Senator Merkley. No.

The Clerk. Mr. Mullin?

Senator Capito. Yes, by proxy.

The Clerk. Mr. Padilla?

Senator Carper. No, by proxy.

The Clerk. Mr. Ricketts?

Senator Ricketts. Aye.

The Clerk. Mr. Sanders?

Senator Carper. No, by proxy.

The Clerk. Ms. Stabenow?

Senator Stabenow. Aye.

The Clerk. Mr. Sullivan?

Senator Capito. Yes, by proxy.

The Clerk. Mr. Whitehouse?

Senator Carper. No, by proxy.

The Clerk. Mr. Wicker?

Senator Capito. Yes, by proxy.

The Clerk. Mr. Chairman?

Senator Carper. No.

The Clerk will report.

The Clerk. Mr. Chairman, the yeas are 9, the nays are 10.

Senator Carper. The yeas are 9 and the nays are 10. The amendment is not adopted.

Does any Senator wish to offer another amendment to this legislation?

Senator Ricketts. Yes, Mr. Chairman.

Senator Carper. Senator Ricketts, please go ahead.

Senator Ricketts. I would like to call up Ricketts Amendment No. 2.

I have concerns about the People's Republic of China and their ability to take advantage of the system to avoid following their international commitments.

The PRC is not a developing nation. The PRC is the second largest economy in the world. Since 1992, the PRC's economy has grown by more than 1,000 percent and its emissions have more than quadrupled.

Yet, the PRC has and continues to strategize and act so that it can be treated as a developing country under international multilateral agreements, including the Montreal Protocol and the UN Convention on Climate Change.

We cannot allow the PRC to self-designate as a developing country to gain unfair special trade treatment that it does not deserve. The PRC needs to operate on the same level playing field if we are going to prove we can do it better than they can.

I look forward to working with you all in the future on this issue and wish to withdraw my amendment.

Senator Carper. Thank you very, very much.

Are there other Senators wishing to speak?

[No audible response.]

Senator Carper. Seeing no further speakers, the question is now on final passage.

I move that the committee favorably report S. 1863, the PROVE IT Act with the amendments in the nature of a substitute.

The Clerk will call the roll.

The Clerk. Mr. Boozman?

Senator Boozman. Aye.

The Clerk. Mrs. Capito?

Senator Capito. No.

The Clerk. Mr. Cardin?

Senator Cardin. Aye.

The Clerk. Mr. Cramer?

Senator Cramer. Aye.

The Clerk. Mr. Fetterman?

Senator Fetterman. Aye.

The Clerk. Mr. Graham?

Senator Capito. Yes, by proxy.

The Clerk. Mr. Kelly?

Senator Kelly. Aye.

The Clerk. Ms. Lummis?

Senator Lummis. Aye.

The Clerk. Mr. Markey?

Senator Markey. No.

The Clerk. Mr. Merkley?

Senator Merkley. Aye.

The Clerk. Mr. Mullin?

Senator Capito. No, by proxy.

The Clerk. Mr. Padilla?

Senator Carper. Yes, by proxy.

The Clerk. Mr. Ricketts?

Senator Ricketts. No.

The Clerk. Mr. Sanders?

Senator Carper. Yes, by proxy.

The Clerk. Ms. Stabenow?

Senator Stabenow. Aye.

The Clerk. Mr. Sullivan?

Senator Capito. No, by proxy.

The Clerk. Mr. Whitehouse?

Senator Carper. Yes, by proxy.

The Clerk. Mr. Wicker?

Senator Capito. No, by proxy.

The Clerk. Mr. Chairman?

Senator Carper. I am going to vote yes.

Does anyone wish to change their vote?

Senator Markey. Mr. Chairman, I would like to change my vote from no to aye.

Senator Carper. Senator Markey changes from no to aye.

Does anyone else wish to change their vote? All right, the Clerk will report.

The Clerk. Yes, sir, the yeas are 14, the nays are 5.

Senator Carper. The yeas are 14 and nays are 5. The legislation is favorably reported. I would note for the record that a quorum of the committee is present. Thank you.

We will now consider S. 2781, the Good Samaritan Remediation of Abandoned Hardrock Mines Act of 2023 and the Kelly-Lummis Amendment in the nature of a substitute to this legislation. The amendment is in the nature of a substitute and incorporates technical assistance from the EPA that has been agreed to on a bipartisan basis with the bill's sponsors.

As the Ranking Member and I have agreed, I now ask unanimous consent to use the amendment in the nature of a substitute as the base text for the purposes of this business meeting. Is there objection?

[No audible response.]

Senator Carper. Hearing no objection, the committee will use the Kelly-Lummis substitute as the base text for the purpose of the committee's action on the Good Samaritan Act.

[The text of S. 2781 and the amendment in the nature of a substitute follows:]

Senator Carper. As no other amendments were filed, I move to report S. 2781, the Good Samaritan Act of 2023, with the amendment in the nature of a substitute. All in favor say aye.

[Chorus of ayes.]

Senator Carper. All opposed, say nay.

[Chorus of noes.]

Senator Carper. 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.

Senator Cardin?

Senator Cardin. I just wanted to briefly comment on the bill we just passed.

It provides for a pilot program for waivers to the Superfund rules and the Clean Water Act. I don't think we should do that lightly. I want to compliment Senators Heinrich and Risch for the compromises that they were able to get and the protections that they have in this bill. I applaud them for those efforts.

But I do want to raise the issue that whenever we look at any type of a waiver from the Superfund rules or the Clean Water Act, we need to be extremely careful. There are other alternatives that could have accomplished these same goals.

I am concerned that we haven't explored those options as deeply as we should. For example, we could be looking at changes

within the Superfund rules and Clean Water Act as it relates to reclamation activities and cleanup activities itself.

Secondly, in the Bipartisan Infrastructure Bill, we provided under Section 4704 authorization for funds for clean-up under the Abandoned Hardrock Mine Reclamation Authority. Unfortunately, that was authorized at \$3 billion. It is my understanding that our appropriators have recommended \$5 billion. That is a far cry from what we intended under the Bipartisan Infrastructure Bill in order to clean up these abandoned mines.

Lastly, we should be looking at the responsible parties. I know it is challenging, but they are the ones responsible for the clean-up.

I just really wanted to raise those cautionary tones. I did not oppose this being reported out by voice vote. But as this legislation works its way forward, I think we have to be extremely cautious about waivers to the Superfund rules or the Clean Water Act.

Senator Markey. Mr. Chairman?

Senator Carper. Senator Markey?

Senator Markey. I would like to associate myself with the remarks of the Senator.

Senator Carper. All right. Anyone else?

[No audible response.]

Senator Carper. All right. Now I am going to call up en bloc the following bills: S. 3412, the Reuben E. Lawson Federal Building Act of 2023; S. 3570, a bill to designate the United States Court house located at 500 West Pike Street in Clarksburg, West Virginia as the Irene M. Keeley United States Courthouse; and S. 3577, a bill to designate the Federal building located at 300 East Third Street in North Platte, Nebraska, as the Virginia Smith Federal Building.

[The text of the referenced naming bills follows:]

Senator Carper. I move to favorably report these naming bills to the Senate. All in favor, say aye.

[Chorus of ayes.]

Senator Carper. Opposed, say nay.

[No audible response.]

Senator Carper. 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.

Senator Capito, I think that concludes our business for today. I want to thank everybody for helping to get us through this. We were a little rusty but we closed strong. I thank everyone for your help and participation.

That concludes the committee's votes as part of today's business meeting. Again, we thank everyone. I will now recognize any member who would like to speak on any matter that we have voted on. Would anyone like to speak?

[No audible response.]

Senator Carper. In closing, I want to thank our members for being here today and voting on these important bills.

For some final housekeeping, I would ask unanimous consent to submit for the record letters of support for legislation our committee approved today.

[The referenced information follows:]

Senator Carper. I also ask unanimous consent that the staff have authority to make technical and conforming changes to the legislation approved today.

Thank you, everyone, for your participation. With that, this business meeting is adjourned. Thank you all.

[Whereupon, at 11:24 a.m., the business meeting was adjourned.]