

BUSINESS MEETING

Wednesday, March 22, 2017

United States Senate

Committee on Environment and Public Works

Washington, D.C.

The committee met, pursuant to notice, at 10:13 a.m. in room 406, Dirksen Senate Office Building, the Honorable John Barrasso [chairman of the committee] presiding.

Present: Senators Barrasso, Carper, Inhofe, Capito, Fischer, Moran, Rounds, Ernst, Whitehouse, Merkley, Gillibrand, Booker, and Harris.

STATEMENT OF THE HONORABLE JOHN BARRASSO, A UNITED STATES  
SENATOR FROM THE STATE OF WYOMING

Senator Barrasso. Good morning. I call this business meeting to order.

We are here to consider bipartisan legislation, S. 512, the Nuclear Energy Innovation and Modernization Act.

I am going to call up the Barrasso-Carper-Whitehouse-Inhofe-Booker-Fischer-Capito-Duckworth substitute that was circulated on Friday.

We have agreed that this substitute shall be considered the original text for the purposes of amendments. However, no amendments have been filed. So Senator Carper and I will give our statements, then we will vote to report the substitute to the Senate when we have a quorum of 11, and we actually do have a quorum of 11 right now.

After the vote I will recognize other members for any statements that they may wish to make.

[The text of the amendment to S. 512 offered by Senators Barrasso, Carper, Whitehouse, Inhofe, Booker, Fischer, Capito, and Duckworth follows:]

Senator Barrasso. The Nuclear Innovation and Modernization Act is comprehensive. It is innovative. This is nuclear energy legislation that we have introduced along with Senators Whitehouse, Inhofe, Booker, Crapo, Fischer, Capito, Manchin, additionally, cosponsored by Ranking Member Carper, Senators Duckworth, Casey, Flake, Rounds.

This bipartisan bill seeks to modernize the Nuclear Regulatory Commission by providing a flexible regulatory framework for licensing advanced nuclear reactors. At the same time, the bill maintains the ability of the Commission to assess a variety of technology and still meet its mission of ensuring safety and security.

Our legislation will also update the Nuclear Regulatory Commission's fee recovery structure. This measure will bring increased transparency and accountability to the NRC, while improving the Commission's efficiency and timeliness.

The bill also helps America's uranium producers who are essential to empowering this technology. Specifically, the bill addresses the Department of Energy's mismanagement of the public stockpile of excess uranium.

Since 2009, the Department has repeatedly violated its own written policy and Federal law when managing the public's excess uranium. As a result, the Department of Energy has failed to

obtain a fair return on this uranium for American taxpayers.

The Department of Energy's mismanagement has also contributed to volatility in the uranium market and has led to job losses in States across the Country, specifically in my home State of Wyoming.

Our bipartisan legislation is going to enable the development of innovative reactors with bold new technologies, and we need to create an environment where entrepreneurs can flourish and create jobs here at home that will revolutionize and revitalize our nuclear energy sector. This legislation does all of that.

I would like to now turn to Ranking Member Carper for his statement.

[The prepared statement of Senator Barrasso follows:]

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

Senator Carper. Thanks, Mr. Chairman.

The Chairman and I have enjoyed a brief, but I think very productive, positive relationship in the brief time that he has been our Chairman and I have served as the Ranking Member of this Committee. And while we may not agree on quite everything, my hope and my expectations are we are going to continue to do our best to come together where we can to make progress on any number of fronts.

Today is a perfect example of working together and coming up on an issue that is important for both of us, for our States, for our Country, and that is innovation in nuclear energy.

For those of us on the Democratic side of the aisle in the Senate, there are few environmental challenges that are more important than what we believe to be the clear and damaging effect of climate change. Nuclear power is a prime example of how we can combat the negative impact of climate change on our environment and public health, while also providing economic opportunity for a lot of Americans.

Done responsibly, nuclear power helps our Nation and many others curb our reliance on other fuels, dirtier fuels in many instances, and we can help create the air pollution that damages

our lungs and our climate.

I think, Mr. Chairman, if I am not mistaken, about 20 percent of the electricity in our Country on a grid comes from nuclear, and about almost two-thirds of the electricity in our Country that is carbon-free comes from nuclear; and that is nothing to sniff at.

At the same time, we know that when the United States leads in nuclear energy, we create opportunities for good paying manufacturing jobs, good paying construction jobs, good paying operating jobs right here at home.

Today, nuclear energy provides, as I said earlier, 20 percent of our Nation's energy and about two-thirds of our Nation's carbon-free energy. If we are smart, we will replace our aging nuclear reactors with new technology, developed in this Country, that is safer, produces less spent fuel, and is cheaper to operate and build, and that would be a good, good thing. If we seize this opportunity, the U.S. can be a leader in nuclear energy again, as we once were, reaping the economic benefits that flow from that leadership.

I want to commend our Chairman and the cosponsors of this bill, especially Senators Whitehouse, Inhofe, Booker, and Crapo, for their work to reach a bipartisan agreement. It reminds me a little bit of TSCA, Mr. Chairman, and that is very encouraging. It is a good bill, one that has come quite a way since its

introduction last year.

As my colleagues have heard me say again and again, if it isn't perfect, make it better, which is why I have worked with the authors of the legislation in order to make several improvements to the underlying bill. These changes in the manager's amendment now provide more support for advanced nuclear reactors. Specifically, the changes are meant to ensure that all advanced nuclear technologies are treated the same when it comes to Federal funding. They incentivize private investments in research and development in advanced nuclear technology, which is critical for advanced nuclear.

Finally, these changes will help us to assess advanced nuclear technology that has the potential to make nuclear fuel rods in current and future reactors safer than existing technology.

Again, I want to thank our Chairman. I want to thank the bill's cosponsors, along with the members of our staffs for working together to make this collective effort even better, and this industry even safer and more productive.

With these changes, I am happy to cosponsor the legislation and look forward to supporting the bill with all of you. I hope our colleagues will join me in supporting the manager's amendment and the legislation. This legislation finally ensures the U.S. is on the cutting edge of nuclear technology,

technology that is safer, more cost-competitive than our current fleet. I truly believe this legislation is a critical piece in addressing our climate and clean air goals.

Thank you, Mr. Chairman. Let's rock and roll.

[The prepared statement of Senator Carper follows:]

Senator Barrasso. Thank you very much for all your hard work on this and making sure we get something that so many of us could cosponsor, and I appreciate your efforts and that of your staff.

We do have a quorum present, so we will proceed to the vote.

At this time, I would entertain a motion to adopt the Barrasso-Carper-Whitehouse-Inhofe-Booker-Fischer-Capito-Duckworth substitute amendment to S. 512 and report S. 512, as amended, favorably to the Senate.

Senator Whitehouse. So moved.

Senator Barrasso. So moved and seconded.

The Clerk will call the roll.

The Clerk. Mr. Booker?

Senator Booker. Aye.

The Clerk. Mr. Boozman?

Senator Barrasso. Aye by proxy.

The Clerk. Mrs. Capito?

Senator Capito. Aye.

The Clerk. Mr. Cardin?

Senator Carper. Yes by proxy.

The Clerk. Mr. Carper?

Senator Carper. Yes.

The Clerk. Mrs. Duckworth?

Senator Carper. Yes by proxy.

The Clerk. Mrs. Ernst?

Senator Ernst. Aye.

The Clerk. Mrs. Fischer?

Senator Fischer. Aye.

The Clerk. Mrs. Gillibrand?

Senator Gillibrand. No.

The Clerk. Ms. Harris?

Senator Harris. No.

The Clerk. Mr. Inhofe?

Senator Inhofe. Aye.

The Clerk. Mr. Markey?

Senator Carper. Yes by proxy.

The Clerk. Mr. Merkley?

Senator Carper. Yes by proxy.

The Clerk. Mr. Moran?

Senator Moran. Aye.

The Clerk. Mr. Rounds?

Senator Rounds. Aye.

The Clerk. Mr. Sanders?

Senator Carper. No by proxy.

The Clerk. Mr. Shelby?

Senator Barrasso. Aye by proxy.

The Clerk. Mr. Sullivan?

Senator Barrasso. Aye by proxy.

The Clerk. Mr. Whitehouse?

Senator Whitehouse. Aye.

The Clerk. Mr. Wicker?

Senator Barrasso. Aye by proxy.

The Clerk. Mr. Chairman?

Senator Barrasso. Aye.

The Clerk will report.

The Clerk. Mr. Chairman, the yeas are 18, the nays are 3.

Senator Barrasso. The legislation is reported favorably to the Senate. I ask unanimous consent the staff have authority to make technical and conforming changes to the measure approved today. Without objection.

I also ask unanimous consent to enter into the record 27 letters of support for the bill. Without objection.

[The referenced information follows:]

Senator Barrasso. At this time, I would like to ask any Senator who seeks recognition to please do so so they can make a statement concerning the bill.

Senator Harris.

Senator Harris. Thank you, Mr. Chairman. I want to thank in particular, you, Chairman, and Ranking Member Carper and Senators Inhofe, Whitehouse, and Booker for your leadership in this act. I understand that this legislation builds on last year's version to address a significant deficiency in clean energy that would follow as nuclear power plants begin to decommission in the next decade. And I appreciate the cooperative and bipartisan manner in which this Committee has engaged on this issue.

From my perspective, this promising legislation has the potential to expand research and development opportunities for advanced nuclear energy by updating policies of the Nuclear Regulatory Commission to keep pace with the technology of this growing industry.

However, real concerns from the public regarding the San Onofre Nuclear Generating Station in my home State of California still resonate with me. It has negatively affected the surrounding community and its residents in San Diego County. Therefore, it is my firm belief that our Committee should

continue to carefully review the rapid progress of advanced nuclear energy projects to ensure their safety and reliability in guaranteeing safety to the general public.

I would also like to continue working with my colleagues here to find a solution to any and all radioactive waste that is produced by nuclear energy power plants. Safely disposing of any radioactive material is a key priority of mine to ensure that we leave our environment pristine and unharmed for future generations in our Country.

After reviewing the manager's amendment package, I am encouraged at the progress our Committee has made to improve this bill, and agree with the amendments that my colleagues have offered. However, as the bill currently stands, I must vote against the Nuclear Energy Innovation and Modernization Act from moving passed our Committee and would like to work with all the sponsors closely to produce a comprehensive bill to further and fully address any uncertainties of advanced nuclear development.

Again, I thank you, Chairman, and the members of our Committee for the bipartisan and important work that was done here.

Senator Barrasso. Well, thank you very much for your comments. We look forward to continuing working with you. Thank you very much.

Senator Inhofe.

Senator Inhofe. Well, first of all, I am in shock here. This is really a big deal. This place ought to be mobbed right now. We have been trying to do this since 21 years ago, that I know of. Also, carrying on the things that we have done in this Committee that no one else was able to do, the TSCA bill, the transportation reauthorization bill, the chemical bill. These are all big things, and we crossed the line, got leaders on both sides. So I have no doubt.

By the way, I have to get in the record this has nothing to do with global warming, nothing to do with climate change.

[Laughter.]

Senator Inhofe. But if that is what it takes to get you guys on board, I am all for it.

[Laughter.]

Senator Inhofe. So I have no reason to believe that this isn't going to fly through and we are going to be able to accomplish something really, really big.

Thank you, Mr. Chairman.

Senator Barrasso. Thank you.

Senator Carper. Maybe this is an unintended consequence. But a happy one.

[Laughter.]

Senator Whitehouse. Mr. Chairman?

Senator Barrasso. Senator Whitehouse.

Senator Whitehouse. First, let me thank the Ranking Member on our side for his leadership and the improvements that he has overseen to this bill, and let me thank my original coauthor on our side, Senator Booker, as well as the Democrats who have joined us in this, Senator Manchin, Senator Casey, and Senator Duckworth.

Let me also thank the Chairman for his leadership and our former chairman for his leadership, Chairman Inhofe. No concessions are implied with respect to climate change on this, Mr. Chairman, but it will help. So we are going to work together.

[Laughter.]

Senator Whitehouse. Let me just also single out our original author, Senator Crapo, Mike Crapo, who has worked long and hard on this and I think deserves considerable credit for placing us where we are today.

I would make two points very briefly. One is that carbon-free power has value. We need to support it. We need to be a part of the innovation and leadership around the world on developing nuclear power. Our Russian and Chinese rivals are busily using our technology and trying to propagate it around the world as their innovation. In fact, it is ours and we should continue to be leading innovators in this Country.

Second, and perhaps the thing that means the most to me in

all of this, is that we presently have a nuclear waste stockpile that we have no idea what to do with. We have been at loggerheads and have done nothing about it for years and years and years and years and years and years now.

There is a possibility, indeed, it is not the first generation of new technology, but it is the next generation of new technology. It is not operative yet, but it is in the planning phase and it is in the discussion phase. It is technology that would allow our existing stockpile of nuclear waste to be turned into productive fuel without the proliferation problems of reprocessing.

If we can get there, we will have done this Country and the world a vital public service. One of the problems around here is that very often our accounting doesn't add up to reality. Right now, if we were a corporation, the liability to the United States of America of all that fossil fuel waste sitting around our nuclear plants with no plan for its disposal, with immense costs that will last for millennia, that would be a huge liability on the company's books, and the company, as a consequence, would be driven to try to find a solution.

This bill puts us in the position to move towards that solution; perhaps not with the alacrity that the full force and effect of treating the nuclear waste as the liability it is for our Country would justify or suggest, but at least it puts us in

the right direction.

And I will close by saying that Senator Inhofe and I have some very strong disagreements about certain things, but when one is working with Senator Inhofe together, I know of no stronger and better legislator in this building. So when we can work together, I celebrate it and I look forward to very positive results.

Thank you.

Senator Barrasso. Thank you, Senator Whitehouse.

Senator Capito.

Senator Capito. Thank you, Mr. Chairman. I want to thank the Ranking Member.

Senator Whitehouse and I are working on the Clean Air and Nuclear Safety Subcommittee, so this is a big day for us. Certainly, we passed this in the 114th, but we have made it stronger and, I think, more viable as we move to hopefully moving this legislation to the Floor in the 115th Congress.

We have worked together. Obviously, the vote of 18 to 3 indicates that an all-of-the-above energy policy is something that we embrace, and nuclear power needs to be and should be a part of this with the innovations that come along.

We are hearing daily, or maybe not daily, but monthly, of facilities that are having issues, financial issues, and are unable to keep functioning because of the expense and the age

and relative age of the technology that exists now on our nuclear plants. So we want to make sure that with this Nuclear Energy Innovation and Modernization Act that we move forward to streamlining the approval to incenting new innovative technologies, smart technologies that are not just scientifically smart, but economically smart at the same time, maintaining that very crucial tenet that we all believe in. That is, the safety not only of those who work there, those who live in and around the facility, and those for the general public and really for the world, like Senator Whitehouse said. We need to be part of an innovative global community that is working to use nuclear power in the best possible way.

So I congratulate you as the Chairman of the Committee for moving this forward, and I look forward to a positive vote.

Thank you.

Senator Barrasso. Thank you so much for all your help.

Senator Booker.

Senator Booker. I am grateful, Chairman, just to share a few words as well.

I agree with Senator Inhofe, Chairman Emeritus Inhofe on his understanding that this is actually a really, really big moment. I have been very blessed to really learn on this Committee that even though there are deep rifts in thought on a lot of the subjects of EPW, there is actually tremendous

potential for us to do bipartisan work. In fact, as a new legislator, three and a half years in this body, I really don't know of two better experiences that I have had than working on TSCA and working on this with my colleagues across the aisle.

This is one that from early on in my Senate career got me very charged up, because I thought that our Country was not leaning in to nuclear energy like we should have, that we were causing, I think, serious problems in terms of our ability to demonstrate American power; and I use that word for multiple purposes. If we are going to lead in this globe on issues of power and purpose, nuclear has got to be one of those areas, both for leading in industry as well as leading in national security. This is such a critical space, and that is why I feel such gratitude.

On the energy side, I am really stunned that this is not a larger priority in our Country. Not only the technology and the exciting technology of the future, which has made me a believer early in my Senate career, but just the mere fact right now that 20 percent of our power is being generated by nuclear energy. And for those of us, and I tread lightly on the friendship I have with Senator Inhofe, but 60 percent, 60 percent of our non-carbon-producing power is nuclear energy. And for these plants to be coming offline like they do gives a severe threat to the larger goals of the United States in terms of climate change.

So there is an urgency here and this is one time that I am proud of Congress, I am proud of the Senate and my colleagues and us coming together to meet a national urgency; step up and put together a piece of legislation that will absolutely make a difference.

We have more work to do in this space, and I know you all understand that, but to come together to work across the aisle to create something as strong as this through a bipartisan effort is really a testimony to Congress. I am proud of the work we did in the last Congress and I am really proud of this day as well. So I want to thank all those that were involved and I am hoping that we can continue to build on this and this is actually momentum for great things to come.

Senator Barrasso. Thank you very much for your comments, your support, all your hard work on this.

Any other members like to make a statement?

Senator Gillibrand, yes, please.

Senator Gillibrand. Thank you, Mr. Chairman and Mr. Ranking Member for holding this hearing. I didn't vote in favor of the Nuclear Energy Innovation and Modernization Act because I would like to briefly address the concerns that I have with the bill and with the approach that we took.

I appreciate the time that the sponsors put into this bill and the work that they have done with me and my staff to include

sections on baffle bolts and emergency planning. That was something really important to our State, and I am pleased that those two provisions are part of the bill, but my concerns deal with other parts.

As this Committee heard in testimony from Dr. Edwin Lyman of the Union of Concerned Scientists earlier this month, there are safety concerns with using the risk-informed licensing for new and novel reactor designs because we can't quantify the risk of a terrorist attack or a natural disaster, which is the biggest concern we have for New York. Having Indian Point be so close to New York City, 8 million people, without any way to evacuate in the instance of a terrorist attack or a natural disaster is what drives these concerns.

I am concerned that this leads to a reduction in the required emergency planning zone for new reactors and diminished activities to ensure the communities are prepared to respond to a radiological release. I believe that would be a serious mistake with potentially devastating consequences. I have worked for years trying to convince the NRC and the nuclear industry to do more for evacuations using the lessons learned from Fukushima and natural disasters that have occurred here in the U.S. The NRC should not move in the opposite direction.

So just as a reminder, the industry and the NRC were wrong in their assumption about the extent of the degraded baffle

bolts before they inspected Indian Point Unit 2 last year and found far more degraded bolts than expected. The NRC should be guided by the most conservative assumptions when it comes to safety and security of communities located in close proximity to nuclear plants, and not, as Dr. Lyman stated in his testimony two weeks ago, "accept the results of paper studies on faith."

While new and novel technology may well prove to be safer than current reactor designs, we just have the responsibility to plan for the worst even as we hope for the best. I also believe that we must do more to address the decommissioning of current nuclear reactors and ensure the safe disposal of set nuclear fuel before we give the industry an expedited path for nuclear plants; and I say this because we are going to decommission Indian Point, but it is still a terror target. As long as the radioactive material stays there and doesn't have a plan for cleaning it up, it is still a very huge risk for New York City and the Country.

So I hope that I can work with all of you in the future to come up with some better planning for safety, for evacuations, and for decommissioning when you do have a nuclear site like ours that is a very high terrorist risk.

Thank you.

Senator Barrasso. Well, thank you for your comments and thank you for helping strengthen the bill with the

recommendations that you made on the other points that were incorporated. We appreciate your efforts and continue to look forward to working with you.

Immediately following today's business meeting, as we are adjourning, members of the press are invited to join the Committee's cosponsors of this bill for media availability. We will do it right down here in front of the dais.

No other concerns to be raised?

Senator Whitehouse. Mr. Chairman, just very briefly. I hope that the Committee will take into sincere consideration the home State concerns of Senator Harris and Senator Gillibrand. It has been a longstanding tradition of Senate Committees, and particularly this one, where there is a significant home State problem, to allow Senators to try to get some attention here in the Committee and try to help them find a resolution. It may not be an issue for everyone, but I think it is a matter of comity and an important tradition that we try to pay sincere attention to those home State concerns.

Senator Barrasso. I appreciate the comments, and that is the intention, yes.

Senator Carper.

Senator Carper. I would certainly concur with what Senator Whitehouse has just said. I also want to say, again, legislation that makes this kind of progress doesn't happen just

because of the folks sitting on this side of the dais. We have actually a lot of witnesses come in, people we have met with from industry, environmental community and others. Our staffs have done excellent work and I just want to say a special thank you to all of them. Thank you.

Senator Barrasso. Well, thanks to everyone for all your hard work in making sure that this has gotten through this staff. The bill passed today 18 to 3; certainly a sign of incredible bipartisan effort.

Thank you very much. The Committee is adjourned.

[Whereupon, at 10:37 a.m. the committee was adjourned.]