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## BUSINESS MEETING

Tuesday, December 17, 2019

U.S. SENATE

Committee on Environment and Public Works

Washington, D.C.

The committee met, pursuant to notice, at 9:36 a.m., in room 406, Dirksen Senate Building, the Honorable John Barrasso [chairman of the committee] presiding.

Present: Senators Barrasso, Carper, Inhofe, Capito, Cramer, Braun, Rounds, Sullivan, Boozman, Wicker, Ernst, Cardin, Merkley, Gillibrand, Van Hollen.

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.

Today we are going to consider one bill, one nomination, and 19 General Services Administration resolutions. Senator Carper and I have agreed that we will begin voting at 9:45. At that time, I will call up the items on the agenda. We will not debate the items on the agenda while we are voting. Instead, we will debate the items on the agenda before we begin voting. We will also be happy to recognize any member who still wishes to speak after the voting concludes.

Today, we will consider S. 3051, America's Conservation Enhancement Act, or the ACE Act. I introduced the ACE Act, along with Senator Carper, and then Senators Cramer, Cardin, Capito, and Van Hollen have all joined as cosponsors. I thank them for working with me to craft this important piece of legislation.

The ACE Act is a comprehensive, bipartisan, wildlife conservation bill. It protects both wildlife and wildlife habitat, while protecting livestock from predatory species. It addresses threats to communities and native wildlife from invasive species, as well as from emerging disease.

More specifically, the bill reauthorizes the important

environmental programs, including the North American Wetlands Conservation Act, the National Fish and Wildlife Foundation Act, and the Chesapeake Bay Program. The ACE Act also enshrines in statute partnerships among public agencies and other interested parties to promote fish conservation.

The ACE Act addresses the terrible, degenerative, highly contagious brain disease known as chronic wasting disease. We have heard in several hearings how chronic wasting disease impacts wildlife, including degeneration of the brain, loss of bodily control, and untimely death. Detected nearly 40 years ago, chronic wasting disease has spread to 26 States and 4 Canadian provinces.

The ACE Act establishes a Chronic Wasting Disease Task Force at the U.S. Fish and Wildlife Service. This task force will bring States, relevant federal agencies, scientists, managers, and farmers to the table. Together, they can better coordinate prevention and control efforts and target future research to address unanswered questions.

The ACE Act helps livestock producers better manage and cope with the interactions between livestock and wildlife. It authorizes funds for livestock producers to carry out non-lethal activities that reduce livestock loss due to predation by federally protected species. It also compensates ranchers and farmers for livestock lost due to predation.

The ACE Act also authorizes the Director of the U.S. Fish and Wildlife Service to issue permits to livestock producers that will help prevent black vultures and ravens from killing newborn calves and lambs. The ACE Act also includes studies that will help them form how to improve successful conservation and recovery of endangered and threatened species.

The bill supports recreational hunting and sport fishing through the wildlife conservation dollars that these activities generate by authorizing financial and technical assistance under the Pittman-Robertson Wildlife Restoration Fund to States for the promotion of hunting and recreational shooting.

Together, these provisions will make America's wildlife healthier and more abundant, while allowing rural communities to thrive at the same time. I encourage all my colleagues to support it.

Today, we will also consider the nomination of Robert Feitel to be the Inspector General of the Nuclear Regulatory Commission. The Subcommittee on Clean Air and Nuclear Safety held a hearing on Mr. Feitel's nomination earlier this month. I would like to thank the chairman of the subcommittee, Senator Braun, for holding the hearing and assisting the full committee in considering Mr. Feitel's nomination. Mr. Feitel is well qualified, and will bring a wealth of experience and expertise to this important position.

Lastly, we will consider 19 resolutions to approve prospectuses providing for General Services Administration leases.

I urge my colleagues to support passage of the bill, the nominee, and the resolutions we are considering today.

In a few minutes, we will hear from the Ranking Member, as well as Senator Cardin. While we are waiting, I will submit for the record a number of letters of stakeholder support. The committee has received statements in support of America's Conservation Enhancement Act, or the ACE Act, from stakeholders, including the National Wildlife Federation, the Association of Fish and Wildlife Agencies, Trout Unlimited, Congressional Sportsmen Foundation, the Northeast Association of Fish and Wildlife Agencies, the American Sportfishing Association, the Wyoming Game and Fish Department, the Wyoming Stock Growers Association.

Without objection, I ask unanimous consent to submit these letters for the record. And it is so done.

[The referenced information follows:]

Senator Barrasso. Senator Cardin.

[The prepared statement of Senator Barrasso follows:]

STATEMENT OF THE HONORABLE BENJAMIN L. CARDIN, A UNITED STATES  
SENATOR FROM THE STATE OF MARYLAND

Senator Cardin. Mr. Chairman, I understand we are going to be voting in a couple of minutes. Until we get the necessary quorum here, let me just thank you on behalf of all the members of this committee, both Democrats and Republicans, for putting together a bill on conservation that I hope will enjoy not only broad support, I hope it has unanimous support. I think you have put together a well-balanced package.

I want to thank you and Senator Capito in regard to the Chesapeake Bay. We have been working, it won't be a surprise to this committee that I mention the Chesapeake Bay as my first issue, but the reauthorization of the program, which we have acted on in the past. We have updated it, and I thank you for your help in updating it, and I have an amendment that will be incorporated either in the manager's package or when we vote, that points out the importance of the Chesapeake Bay Program.

I might also add, I want to thank the appropriators, because they put more money into the program. So we are getting pretty close to the authorized levels here. All that, I think, is really strong news in regard to the federal partnership in regard to the Chesapeake Bay program.

I also want to thank you for including some other provisions in this bill, including the Gateways Program, which

is something we have also authorized in the past. I know Senator Van Hollen is here, I want to applaud his efforts in working in regard to the fish and wildlife programs as it relates to the Chesapeake Bay. So in all those examples, I think the Bay gets the proper attention in this bill.

Senator Gardner and I have worked on a bill that allows Fish and Wildlife to, in regard to the fines, be able to use that in regard to conservation. I understand that Senator Sullivan has a concern about that provision, and in talking with the Chairman, it is our understanding that will be included in the package as it moves forward, provided we work out the issue in regard to Senator Sullivan's issue.

With that, I was hoping that Senator Carper would be here by now. It looks like we have a quorum.

[The prepared statement of Senator Cardin follows:]

Senator Barrasso. We do have a quorum.

So we will wait for him.

Senator Sullivan. Mr. Chairman?

Senator Barrasso. Senator Sullivan.

Senator Sullivan. I am just becoming aware of this issue, with Senator Cardin. I want to work with him on this. It does raise some issues that are very, very, very important to my State. The ANILCA federal law that passed in 1980, which was not supported by most Alaskans, is a law that is highly sensitive. Anything that impacts that law, it is a federal law that only relates to Alaska. There are a lot of those, unfortunately, for my State.

So I want to make sure that this doesn't negatively impact that. We are looking at it. But these are really important issues to my and my constituents. The U.S. Supreme Court, in a nine to zero case, just this year interpreted this ANILCA federal law essentially saying, hey, federal agencies have been misinterpreting this in Alaska for decades, nine to zero, Kagan opinion. We agree with that.

So I want to make sure that whatever, and I want to work with Senator Cardin. I am a little reluctant to kind of sign off on something that we just saw yesterday that might have an impact on my State in a way that is very, very, could be very serious. I just want to make sure all the questions that I have

on this and my State have on this are answered before we move forward.

I would certainly want to work with Senator Cardin on an amendment for the Floor. I think we can work this out soon. I was just made aware of this, my staff was just, just yesterday. I was made aware this morning. These ANILCA issues are really important to me.

Senator Cardin. Mr. Chairman, if I could, I thank Senator Sullivan, and we certainly will, I always enjoy working things out with you. So I am certain we will be able to do this.

I think it probably helps you. One reason why is, it prevents OMB from trying to use this as a budget issue. So we are really, I think, in a way, helping you in regard to your concerns about the monies coming in from this program being used as a filler in the budget. That prevents that from happening, because it keeps it within conservation.

But I will be glad to work with Senator Sullivan to make sure that your issue is addressed.

Senator Barrasso. We do have enough members here for a quorum. We are waiting on Senator Carper. But I know others have other obligations as well, and need to leave shortly. So we have enough members here.

I would like to move to the votes on the items on today's agenda. The Ranking Member and I have agreed to vote on S.

3051, America's Conservation Enhancement Act, by voice vote. The Ranking Member and I have further agreed to vote on the nomination and 19 General Services Administration resolutions en bloc by voice vote. Members may choose to have their votes recorded for a specific item in that en bloc after the first vote.

So the first vote, S. 3051, America's Conservation Enhancement Act, I would like to call that up at this time.

[The text of S. 3051 follows:]

Senator Barrasso. Members have filed amendments to the bill. So before we proceed, I want to acknowledge several amendments.

Senator Carper, we would love to have you, if you would like to, make an opening statement. I am just reading through some of the amendments that we have on this bill that we have talked about. Senators Merkley and Rounds have filed an amendment regarding pollinators on roadsides and highways rights of way. We are going to work with Senators Merkley and Rounds to address the issue of pollinators as we move the Highway Bill to the Floor.

[The text of the amendment follows:]

Senator Barrasso. Senator Carper, would you like to say a few words, either about specifically the Merkley-Rounds amendment or in general about the markup today?

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

Senator Carper. Thank you, Mr. Chairman. I will be brief.  
Colleagues, good morning, everyone. Good morning, Mr.  
Chair, and thank you.

We have 19 General Services Administration resolutions on  
our agenda, as well as the nomination of Robert Feitel to be the  
Inspector General of the Nuclear Regulatory Commission.

Before I begin, I want to say I am encouraged that our  
committee is moving expeditiously to advance this nomination.  
We cannot be complacent when it comes to nuclear safety. We  
need to ensure that our Nation's nuclear industry is held to the  
very highest standards. That means we need a strong and  
independent NRC Inspector General. I believe Mr. Feitel is well  
qualified and prepared to take on this important responsibility.

I also want to use this opportunity to focus on the  
bipartisan legislation we have before us today, America's  
Conservation Enhancement Act, or the ACE Act. This Congress,  
our committee has examined a number of wildlife conservation  
challenges, including invasive species and wildlife disease. At  
each hearing, our witnesses emphasized the need for federal  
action to address these conservation challenges.

After weeks of negotiation, Chairman Barrasso and I  
introduced the bipartisan ACE Act, late last week, to enable

some of those actions. In addition to creating innovative new programs, the ACE Act will reauthorize existing wildlife and habitat conservation projects that have a demonstrated history of success. Many of these programs leverage private dollars and local partnerships that will create tremendous opportunities in my State of Delaware.

I am going to ask that the rest of my statement be entered for the record. I am pleased with our action today and I thank my colleagues.

[The prepared statement of Senator Carper follows:]

Senator Barrasso. Without objection, it will be.

Senators Booker, Merkley, and Whitehouse filed an amendment regarding wildlife corridors. I worked with Senators Carper and Booker on wildlife corridors in the Highway Bill, and we are going to continue to work with them on wildlife mitigation issues.

[The text of the amendment follows:]

Senator Barrasso. There is an amendment we were discussing earlier filed by Senator Cardin regarding the National Wildlife Refuges, and Senator Sullivan appropriately requested additional time to study the issue. We are not going to consider that amendment at this time, but I look forward to working with both of them to address the matter in the future.

The Ranking Member and I have agreed to vote on the three amendments en bloc by voice vote. Members may choose to have their votes recorded for a specific item in that bloc after the voice vote. We have agreed to consider Barrasso-Carper Number 1, Cardin-Van Hollen Number 1, and also Merkley-Booker Number 3, which we agreed to accept as filed after the filing deadline, and which we circulated yesterday afternoon. I am pleased to accept these amendments.

So I would like to now call up Barrasso-Carper 1, Cardin-Van Hollen Number 1, and Merkley-Booker Number 3 en bloc. I ask that members hold discussion on their agreed-upon amendments until after we complete voting. I move to approve Barrasso-Carper 1, Cardin-Van Hollen 1, and Merkley-Booker Number 3 en bloc. Is there a second?

Senator Carper. Second.

Senator Barrasso. All those in favor, say aye.

[Chorus of ayes.]

Senator Barrasso. Opposed, nay.

[No audible response.]

Senator Barrasso. In the opinion of the Chair, the ayes have it. We have adopted and agreed to Barrasso-Carper 1, Cardin-Van Hollen 1, Merkley-Booker Number 3.

Seeing no further members wishing to offer amendments, I ask unanimous consent that the Chair be authorized to incorporate the amendments we have agreed to into a single amendment in the nature of a substitute to S. 3051, without objection.

I now move to approve the substitute amendment to S. 3051 and report S. 3051, as amended, favorably to the Senate. Is there a second?

Senator Cardin. Second.

Senator Barrasso. All those in favor, say aye.

[Chorus of ayes.]

Senator Barrasso. Opposed, nay.

[No audible response.]

Senator Barrasso. In the opinion of the Chair, the ayes have it. We have approved S. 3051 as amended. That will be reported favorably to the Senate.

Now I would like to call up Presidential Nomination 1247, Robert Feitel, of Maryland, to be Inspector General of the Nuclear Regulatory Commission, and 19 General Services Administration Resolutions en bloc.

Senator Cardin. Mr. Chairman?

Senator Barrasso. Senator Cardin.

Senator Cardin. I would ask unanimous consent to submit for the record a letter from GSA. This letter provides assurances that none of the funds authorized for consolidated activities programs for fiscal year 2020 will be used toward the FBI headquarters. The letter is dated December 16th of this year.

Senator Barrasso. Without objection, so ordered.

[The referenced information follows:]

Senator Barrasso. We move now to approve and report Presidential Nomination 1247 and approve 19 GSA Resolutions en bloc. Is there a second?

Senator Carper. Second.

Senator Barrasso. All those in favor, say aye.

[Chorus of ayes.]

Senator Barrasso. Opposed, nay.

[No audible response.]

Senator Barrasso. In the opinion of the Chair, the ayes have it. We have approved Presidential Nomination 1247, which will be reported favorably to the Senate. We have also approved 19 GSA Resolutions.

The voting part of the meeting has concluded. I would be happy to recognize any member who wishes to speak.

Senator Carper. Mr. Chairman?

Senator Barrasso. Senator Carper.

Senator Carper. Could I just say one thing before we leave? Senator Sullivan and I were fortunate to sit together for the Army Navy football game on Saturday. We were proud of our teams, and proud of the Army as well. It was great.

There all kinds of people wearing Army uniforms, Navy uniforms, Marine, air Force uniforms that day. I said, different uniforms, same team. Different uniforms, same team. And I feel that on this committee, we wear different uniforms,

but on a day like today, same team. Thank you.

Senator Barrasso. Thank you very much, Senator Carper.

Now that we have approved this, would anyone like to make statements on any of the bills? Senator Van Hollen.

Senator Van Hollen. Thank you, Mr. Chairman. I want to thank you and Senator Carper for teaming up and proposing this really important piece of bipartisan legislation. Thank you for that.

I want to second some of the comments Senator Cardin made regarding the EPA program for the Chesapeake Bay, both the reauthorization at a somewhat higher level, the Chesapeake Gateways Programs and specifically the new Chesapeake WILD Act, which will provide Fish and Wildlife with the authority to work with folks in the Bay to better restore habitat for wildlife. I am grateful for the inclusion of that, and thank you both for your leadership.

Senator Barrasso. Thank you very much, Senator Van Hollen.

Senator Merkley?

Senator Merkley. Thank you very much, Mr. Chairman. I appreciate your team working with my team for the Amendment Number 3, and for your statement regarding the Monarch Pollinators Highway. The Monarch has suffered a huge decline in its center of the Country. There are two main Monarch populations, one east of the Rockies, one west of the Rockies.

West of the Rockies is even more devastated, with 90 plus percent loss within the last decade, and an indication that this year is half of last year. So it is a very dramatic impact, and I look forward to having that conversation as part of the Highway Bill.

The whole idea is based on Tennessee, which enabled plots of milkweed and other pollinator friendly plants, to be patched along the State highways. It just seems like a simple way to help provide additional habitat, and a valuable thing to undertake. Thank you for your offer to help when we come to the Highway Bill.

Senator Barrasso. Absolutely. Thank you for your leadership on this, Senator Carper.

Senator Carper. Thanks. I want to commend Senator Merkley for his amendment and for shining a light on the plight of our Nation's pollinators. Pollinators like Monarch butterflies and bees have experienced population declines in recent years due to climate change, habitat loss, pesticide use and other factors. These declines not only present a serious threat to the health of natural ecosystems, but also to our Nation's food supply and agricultural economy.

This last Saturday, we celebrated the 75th anniversary of the Delaware Farm Bureau, the establishment of the Delaware Farm Bureau in the State of Delaware. I don't think I ever go to a

Farm Bureau meeting without some farmer raising this issue with me in the first day. It is important that we take steps to protect and enhance the health of these vulnerable populations. Senator Merkley's amendment would create a discretionary grant program for States and tribes to create pollinator friendly habitats on roadsides and rights of way. I am proud to be a cosponsor of the standalone legislation from which Senator Merkley drafted this amendment.

All that said, our committee included carefully negotiated pollinator provisions in our bipartisan Highway Bill. Chairman Barrasso, I would like to work with you and Senator Merkley, if we could, to try to improve upon those provisions as the bill heads to the Floor, instead of amending the ACE Act to include this program. We look forward to doing that, and I appreciate your willingness to work with us toward that end. Thank you.

Senator Barrasso. At this time, I ask unanimous consent that the staff have authority to make technical and confirming changes to each of the matters approved today, without objection.

And with that, our business meeting is concluded; the meeting is adjourned.

[Whereupon, at 9:58 a.m., the meeting was adjourned.]