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U.S. Senate

Date: Thursday, April 7, 2022

Committee on Environment
and Public Works

Washington, D.C.

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BUSINESS MEETING

Thursday, April 7, 2022

United States Senate

Committee on Environment and Public Works

Washington, D.C.

The committee, met, pursuant to notice, at 10:08 a.m. in room 406, Dirksen Senate Office Building, the Honorable Thomas R. Carper [chairman of the committee] presiding.

Present: Senators Carper, Capito, Cardin, Sanders, Whitehouse, Merkley, Markey, Duckworth, Stabenow, Kelly, Padilla, Cramer, Lummis, Boozman, Sullivan.

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

Senator Carper. Good morning, everyone. I am pleased to call this business meeting to order today. We have, as you know, a very full agenda. We are going to vote on nominations for key leadership posts at the Environmental Protection Agency, Wildlife Conservation and Recycling Legislation as well as 10 General Services Administration resolutions.

Let me just take a minute and give you the run of the show. We will vote on the nominations of David Uhlmann to be EPA Assistant Administrator for Enforcement and Compliance Assurance, and Carlton Waterhouse to be EPA Assistant Administrator of Land and Emergency Management. I am anxious to see both of these talented and dedicated men confirmed. I am glad we are finally taking an important step toward that happening in today's process.

Then we will vote on the General Services Administration Resolutions, and then on the Recycling legislation by voice. We will recess the business meeting and reconvene here at noon to debate amendments on the Recovering America's Wildlife Act, RAWA. Then we will stop and take any necessary votes off the Floor at 1:30 in the President's Room.

I want to speak quickly on a few of the business meeting matters. He is not here, but I want to acknowledge Senator

Heinrich and Senator Blunt for their leadership on RAWA, which many of you have joined, and their commitment to working with our committee to improve it. This legislation, as you know, seeks to address a serious challenge that we face, biodiversity loss, which threatens our economy, our ecosystems, and our health.

While I believe we still need to find a way to pay for the bill as it moves to the Floor, we have a moral imperative to conserve all the species with which we share this planet. On balance, the Recovering America's Wildlife Act is an historic bill that advances shared conservation goals.

The two recycling bills, one that I introduced with my Senate Recycling Caucus co-chair, Senator Boozman, has joined us. Thank you, John. And Ranking Member Capito, and another authored by Senator Capito and Senator Boozman and I and others who joined in supporting that legislation, cosponsoring that legislation.

Both of these bills are bipartisan. I think they are a product of the best of our committee's tradition of working together on conservation and sustainability issues.

I would like for us to proceed without delay. Before we do, I want to ask our Ranking Member, Senator Capito, for any remarks that she has.

[The prepared statement of Senator Carper follows:]

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

Senator Capito. Thank you, Mr. Chairman. I want to thank everybody for being here.

In the interest of time, I would like to submit my opening statement for the record. I know everybody is going to be sad about that.

[Laughter.]

Senator Capito. You can give me a standing ovation later.

[The prepared statement of Senator Capito follows:]

Senator Carper. We have a majority of the committee's physically present, and mentally present.

Mary Frances tells me that we can start off by taking up some of the GSA resolutions. The committee noticed 11 GSA resolutions for consideration at this business meeting. At the request of one of our members, and after consultation with the Ranking Member, we are deferring consideration of one of these resolutions, the resolution for leased space in Sumner, Washington.

I call up the remaining 10 GSA resolutions en bloc. For the record, the Chair observes that a quorum is present in the room. Given the presence of a quorum, I move to approve these resolutions and report these matters to the Senate. All in favor, say aye.

[Chorus of ayes.]

Senator Carper. Opposed, say nay.

[No audible response.]

Senator Carper. The ayes have it, the ayes have it, and the legislation is favorably reported.

Next, I want to call up our recycling legislation, S. 3742, Recycling Infrastructure and Accessibility Act of 2022, and S. 3743, the Recycling and Composting Accountability Act of 2022, and a Carper substitute Number One to 3743, en bloc. I move that the Carper Amendment One to S. 3743 be adopted, and that

the committee report both S. 3742 and 3743 as amended. Is there a second?

Senator Capito. I second.

Senator Carper. Thank you very much. All in favor say aye.

[Chorus of ayes.]

Senator Carper. Opposed, nay.

Senator Cramer. No.

Senator Carper. We have one nay. In the opinion of the Chair, the ayes have it, and these bills are favorably reported.

[Pause.]

Senator Carper. We are still waiting for Senator Markey and one more member.

Senator Whitehouse. If I could, Mr. Chairman, very briefly, I just want to thank you for your leadership on recycling, thank you for the hearings that you have done. I look forward to having this committee continue to look into and work on these issues.

In the arena of single use plastic, which is the stuff that most often ends up in oceans and rivers and all that, the American Plastics Industry has managed to achieve a grand total of 2 percent, 2 percent recycled content. I teased them by saying, that is how much falls in accidentally. That is not true, but it is a measure of how helpless the recycling effort

has been, particularly as it affects that really important single use throwaway plastic. Not car parts, not children's car seats, not bicycle helmets, not stuff that is multiple use, but the throwaway plastic. We can do a lot better, and I thank you, Chairman, for your leadership to help us get there.

Senator Carper. This is, as you know, very much a team effort.

My wife and I compost at home. We have a big bin behind our house, and we turn it into really fertile soil for our plants and stuff in our yard. We ought to have the ability to compost in our offices as well as to recycle. We are working with Senator Capito's staff and Senator Boozman's staff and the Architect of the Capitol to make sure that we start doing that, and enable that activity. We are looking forward to that.

Anybody else want to speak to any of these bills as we are waiting the arrival of our two colleagues? Anybody else?

Senator Markey. Mr. Chairman?

Senator Carper. Yes, please.

Senator Markey. Actually not to the bills, but to follow up on the point Senator Whitehouse was making.

Senator Carper. Please, go ahead.

Senator Markey. The Tuesday edition of the Science Times has in it that the results of an investigation have found that the plastic in the ocean is largely binding with other

microorganisms and dropping to the bottom of the ocean, changing the ecosystems tremendously. While that was not the expectation, we thought plastic would float and gather in kind of garbage centers in the ocean, some 98 percent is dropping down way below the surface, way below the surface, much of it to the bottom of the ocean, and is also changing temperatures in the process.

So we are learning a lot more about microplastic pollution and how it alters the fundamental nature of ocean ecosystems. None of the news is good news. It just continues why we have to keep working on this intensely.

Senator Whitehouse. Particularly the news that microplastics have now been found in human blood.

Senator Carper. Correct me if I am wrong, Sheldon, but I have seen reports that the amount of plastic in the oceans now weighs more than the fish and mammals and so forth.

Senator Whitehouse. That is the projection for the year 2050, when many of us will, with any luck, still be around, although perhaps not as mobile as we are right now.

[Laughter.]

Senator Whitehouse. But for sure, our children will be around. And I think the notion that we are going to leave to our children an ocean that has by mass more waste plastic in it than it has living fish is something that ought to drive us to

fairly diligent action. Some greatest generation we are.

Senator Markey. While we are on the topic, Senator Murkowski and I work together on the Appropriations Subcommittee on Interior. We just decided we would revert to inviting people to bring their water bottles with them, just symbolically. I would suggest that here on the Environment Committee, we ought to consider doing the same thing, rather than having the small disposables. An idea worth considering.

Senator Carper. All right. Others, please.

Senator Capito. Well, I guess I can talk now, since we are still waiting.

Senator Markey. We are all waiting for that opening statement.

[Laughter.]

Senator Capito. Well, I am pleased with the recycling bills. I think it came out in the hearings and certainly from a small, rural community in a smaller, rural State, the opportunities for recycling kind of ebb and flow. Economically, it hasn't been a winner for our counties, or our States or our cities.

I think this is the point, is to try to get it out into the rest of the Country so it can be more effective. I look forward to that, and I think it is a good start.

I also would like to thank Senators Heinrich and Blunt for,

they are calling it RAWA, the Wildlife Bill. It has been something that has been in the making, according to Senator Heinrich, for 20 years. It hasn't been easy, I will say that, to try to muscle this one through committee. But I think we do need to look at the pay-for, again, as the committee chairman mentioned in his opening remarks.

So with that, that is a synopsis of my opening statement.

Senator Carper. Thank you for that synopsis.

Senator Whitehouse, please.

Senator Whitehouse. I would be delighted to join Senator Capito in appreciation for Senator Blunt and Senator Heinrich on the Wildlife Bill. I think they put a lot of work into it. It is a very, very good bill. I am an enthusiastic supporter of it.

But as we look down the panel here at the oceans State population, particularly the Ocean State population, I look forward to the day when we put the same effort into conservation, species protection, for oceans and coasts that we put into uplands and freshwater. As you know, I think we should rename the Land and Water Conservation Fund the Upland and Freshwater Conservation Fund to more accurately reflect what it actually does.

We are continuing to try to develop the Oceans and Coasts Fund as a parallel, a coastal and oceans parallel, to the Land

and Water Conservation Fund. I enthusiastically support Martin's bill and Roy's bill. I think it is really, really good. But there is a part of me that wishes it covered the creatures of the sea and the coasts as well.

Senator Capito. Could I ask a question of you, of the bill? So this is going to go to the State organizations. Could your State not use some of this money for that very purpose?

Senator Whitehouse. I think we may be able to. But the focus of the bill and the population of the species to which it was directed are terrestrial species. It gets a little bit more complicated when you are dealing with fisheries the way they are moving about now, because of the warming of the seas.

So as I said, I support this bill and we will try to use it to be as helpful as we can in my home State. But there is a persistent lean in a lot of these conservation programs toward upland and fresh water and away from coasts.

Senator Capito. Understood. I just was thinking.

Senator Cardin. Would my colleague yield?

Senator Capito. Yes, go ahead.

Senator Cardin. Thank you. I agree completely with Senator Whitehouse on this issue. That is why I have an amendment that is pending in regard to the coastal programs. I support this bill, and I compliment the Chair and Ranking Member for working out the issues so we can move this bill forward.

But this bill leaves out an essential part of habitat restoration, and that deals with the coastal areas.

In June of last year, I filed bipartisan legislation with Senator Graham that deals with habitat restoration along the coastal communities. It has been in our committee now for almost a year. We don't have that many markups on legislation.

So we will have a chance during the discussion of the amendment process as to whether we can include that in this legislation. I do think it balances the underlying bill for the coastal communities.

I strongly support this bill. When you look at the way that the State of Maryland comes out percentage, it is not as high as we do in many other programs. And I support this. I recognize it is based upon the factors that are not as favorable to the State of Maryland.

To answer the Ranking Member's question directly, it is very challenging to use these funds for coastal habitat restoration. That is why we filed the separate legislation, which by the way is existing policy. We have a program today on coastal restoration. It is a voluntary program in which public and private sectors can get technical assistance from the Federal Government. It has been in existence since 1985. The legislation that Senator Graham and I authored codifies that program and provides an authorized level.

So I think it complements the underlying bill and provides a better balance among all the States dealing with habitat restoration.

Senator Carper. I think we are ready to roll. I want to thank everybody for staying so we can get this show on the road.

Next, I want to call up Presidential Nomination 1555, David Uhlmann of Michigan to be Assistant Administrator of Enforcement and Compliance Assurance of the Environmental Protection Agency. I therefore move to approve and report the nomination favorably to the Senate. 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. Ms. Capito?

Senator Capito. No.

The Clerk. Mr. Cardin?

Senator Cardin. Aye.

The Clerk. Mr. Cramer?

Senator Cramer. No.

The Clerk. Ms. Duckworth?

Senator Duckworth. Aye.

The Clerk. Ms. Ernst?

Senator Capito. No, by proxy.

The Clerk. Mr. Graham?

Senator Capito. No, by proxy.

The Clerk. Mr. Inhofe?

Senator Capito. No, by proxy.

The Clerk. Mr. Kelly?

Senator Kelly. Aye.

The Clerk. Ms. Lummis?

Senator Capito. No, by proxy.

The Clerk. Mr. Markey?

Senator Markey. Aye.

The Clerk. Mr. Merkley?

Senator Merkley. Aye.

The Clerk. Mr. Padilla?

Senator Padilla. Aye.

The Clerk. Mr. Sanders?

Senator Sanders. Aye.

The Clerk. Mr. Shelby?

Senator Capito. No, by proxy.

The Clerk. Ms. Stabenow?

Senator Stabenow. Aye.

The Clerk. Mr. Sullivan?

Senator Capito. No, by proxy.

The Clerk. Mr. Whitehouse?

Senator Whitehouse. Aye.

The Clerk. Mr. Wicker?

Senator Capito. No, by proxy.

The Clerk. Mr. Chairman?

Senator Carper. Aye.

The Clerk. Chairman, the ayes are 10, the nays are 10.

Senator Carper. All right.

Next, I want to call up the Presidential Nomination 1556 of Carlton Waterhouse of Virginia to be Assistant Administrator for Land and Emergency Management of the Environmental Protection Agency. I move to approve and report the nomination favorably to the Senate. Is there a second?

Senator Cardin. Second.

Senator Carper. Thank you very much.

The Clerk will call the roll.

The Clerk. Mr. Boozman?

Senator Boozman. No.

The Clerk. Ms. Capito?

Senator Capito. No.

The Clerk. Mr. Cardin?

Senator Cardin. Aye.

The Clerk. Mr. Cramer?

Senator Capito. No, by proxy.

The Clerk. Ms. Duckworth?

Senator Duckworth. Aye.

The Clerk. Ms. Ernst?

Senator Capito. No, by proxy.

The Clerk. Mr. Graham?

Senator Capito. No, by proxy.

The Clerk. Mr. Inhofe?

Senator Capito. No, by proxy.

The Clerk. Mr. Kelly?

Senator Kelly. Aye.

The Clerk. Ms. Lummis?

Senator Capito. No, by proxy.

The Clerk. Mr. Markey?

Senator Markey. Aye.

The Clerk. Mr. Merkley?

Senator Merkley. Aye.

The Clerk. Mr. Padilla?

Senator Padilla. Aye.

The Clerk. Mr. Sanders?

Senator Sanders. Aye.

The Clerk. Mr. Shelby?

Senator Capito. No, by proxy.

The Clerk. Ms. Stabenow?

Senator Stabenow. Aye.

The Clerk. Mr. Sullivan?

Senator Capito. No, by proxy.

The Clerk. Mr. Whitehouse?

Senator Whitehouse. Aye.

The Clerk. Mr. Wicker?

Senator Capito. No, by proxy.

The Clerk. Mr. Chairman?

Senator Carper. Aye.

The Clerk. Chairman, the ayes are 10, the nays are 10.

Senator Carper. All right. That conclude this morning's committee votes. My thanks to everybody for helping us get this far. We will reconvene here at noon. Thanks very much.

[Whereupon, at 10:26 a.m., the committee was recessed, to reconvene at 12:00 p.m. the same day.]

[12:06 p.m.]

Senator Carper. I call our business meeting back to order. I would like to call up S. 2372, the Recovering America's Wildlife Act of 2021. By agreement with the Ranking Member, the Carper Substitute Amendment Number 1 to S. 2372 is adopted and considered to be original text for purpose of amendments.

We will now move to consider amendments. Senator Cardin is delayed just a little bit, and I understand Senator Cramer has an amendment, as does Senator Lummis and I think after that Senator Sullivan. Senator Cramer has an amendment, and you are recognized to offer Cramer Amendment Number 4.

Senator Cramer. Thank you, Chair. Yes, I call up Cramer Number 4. Thank you, Mr. Chairman, for having this markup.

Before I state what my amendment does, I really want to take the opportunity to provide some background on the enormous frustration that the people of North Dakota have had with the Fish and Wildlife Service. Put simply, the Fish and Wildlife Service is the textbook example of an intransigent bureaucracy which is more interested in its own self-interests than the interests of the citizens of this Country. Frankly, more interested in their self-interests than they are in their mission.

Since I came to Congress in 2013, I have heard, not from a few, not from dozens, literally hundreds, hundreds of landowners

in North Dakota who have had nothing but bad experiences with the Fish and Wildlife Service under every type of Administration. Their experiences have been disastrous. They have had their private property rights trampled on, their personal rights trampled on. They have had their personal safety trampled on by gun-toting bullet-proof-vest-wearing SWAT teams. They are really biologists pretending to be tough guys. And their livelihoods, and in some cases are literally driven to bankruptcy by zealots on the Fish and Wildlife Service.

In other words, I have very little faith in the Fish and Wildlife Service. In an attempt to work with them, I have voted for Republicans and Democrats in the Department of Interior to include Fish and Wildlife Service directors and under secretaries and deputy secretaries. So this brings us today to this bill.

This Recovering America's Wildlife Act is a bill that I was an original cosponsor of, along with 16 Democrats and 15 other Republicans, I got on this bill. Because it sent funding to State, I emphasize State fish and wildlife agencies to proactively, and I stress proactively, to address and to keep species off, I stress off, the Endangered Species Act list. It should be the goal of every conservationist in the world.

Instead, we see from our federal bureaucracy and some of their stakeholders this desire to keep critters on the

Endangered Species list. I have never understood that.

So when Senators Blunt and Heinrich brought this to me, I said, this makes sense. It emphasizes what States can do. They are more responsible to their constituents, more nimble, frankly, they are more attuned to the situation in front of them.

Instead, and this, Mr. Chairman, is why I voted no on the substitute that creates the bill that is in front of us, it reduces the money going to States, and instead shifts it over to the very people who say, if you just give us more money, we can do better for you. Just give us more money and we can respond in a faster way.

Forgive my skepticism and the skepticism of the people of North Dakota, but I am so tired of bureaucrats who say, if you just give us more, we could help the landowners more. I don't care how fast they do it or how slowly they do it, the outcome is never right. I have yet to have an appeal, for example, on a waterfall production area appeal, ever go the landowner's way. Not under the previous Administration, in fact, under this Administration literally dozens of appeals have never been acted on. In fact, a letter sent by farmers over a year ago to the Director has never even been returned has never been responded to.

So I don't see how giving them more money to not work helps

my landowners.

With that, again I want to applaud Senators Heinrich and Blunt and the people who got on this bill and made it a very, very good bill before today. But this is not that bill.

So my amendment is simple. It simply strips the substitute, returns the bill to its original form, which is what I and many others on the committee signed onto. I urge my colleagues to join me in supporting my amendment to remove the substitute, return the bill to its evenly bipartisan form.

With that, I yield, and thank you.

Senator Carper. Thank you. Senator Capito?

Senator Capito. Thank you, Mr. Chairman.

I want to thank Senator Cramer for his amendment. As we know, and you know, Chairman, we have been talking a lot about this bill and the agreement that we reached on today's substitute was difficult, but it was necessary so we could bring this bipartisan bill before this committee.

However, as I have stated publicly in the past, I support the bill as introduced, as Senator Cramer described, the first one that was introduced by Senators Heinrich and Blunt. For that reason, I will be supporting Senator Cramer's amendment.

Senator Carper. Anyone else on Senator Cramer's amendment Number 4? Anyone else?

All right. I now move to adopt Cramer Amendment Number 4

to S. 2372. Is there a second?

Senator Capito. Second.

Senator Carper. Thank you. The Clerk will call the roll.

The Clerk. Mr. Boozman?

Senator Boozman. Yes.

The Clerk. Ms. Capito?

Senator Capito. Yes.

The Clerk. Mr. Cardin?

Senator Cardin. No.

The Clerk. Mr. Cramer?

Senator Cramer. Yes.

The Clerk. Ms. Duckworth?

Senator Carper. No, by proxy.

The Clerk. Ms. Ernst?

Senator Capito. Yes, by proxy.

The Clerk. Mr. Graham?

Senator Capito. Yes, by proxy.

The Clerk. Mr. Inhofe?

Senator Capito. Yes, by proxy.

The Clerk. Mr. Kelly?

Senator Carper. No, by proxy.

The Clerk. Ms. Lummis?

Senator Lummis. Aye.

The Clerk. Mr. Markey?

Senator Carper. No, by proxy.

The Clerk. Mr. Merkley?

Senator Carper. No, by proxy.

The Clerk. Mr. Padilla?

Senator Carper. No, by proxy.

The Clerk. Mr. Sanders?

Senator Carper. No, by proxy.

The Clerk. Mr. Shelby?

Senator Capito. No, by proxy.

The Clerk. Ms. Stabenow?

Senator Carper. No, by proxy.

The Clerk. Mr. Sullivan?

Senator Capito. Yes, by proxy.

The Clerk. Mr. Whitehouse?

Senator Whitehouse. No.

The Clerk. Mr. Wicker?

Senator Capito. Yes, by proxy.

The Clerk. Mr. Chairman?

Senator Carper. No.

The Clerk. Chairman, the ayes are 9, the nays are 11.

Senator Carper. The ayes are 9, and the nays are 11. The amendment is not agreed to.

I understand that Senator Lummis has an amendment she would like to offer. I just want to say thanks very much to you for

your work with us to make it to the finish line here today.
Thank you so much.

Senator Lummis. My pleasure, Mr. Chairman, thank you.

I call up my amendment Lummis Number 1. It is very straightforward. It requires any data used by federal agencies for Endangered Species Act determinations to be shared with States affected by that determination. That is it.

As we have heard in testimony from both Democrat and Republican witnesses in previous hearings, ESA listing decisions have enormous impacts on communities, from some who love recreating on public lands to those who ranch it or farm it, to the kind of people that Senator Cramer heard from in North Dakota when he discussed his last amendment. These decisions literally affect lives and livelihoods, especially for those of us in the west.

If members of this committee are willing to trust States with billions of dollars in additional conservation funding in perpetuity, as the sponsors and supporters of RAWA indicate they are, then we should be able to trust States with the data that federal agencies have used in making listing determinations. I trust Governor Carper as much as I trust Senator Carper.

[Laughter's]

Senator Lummis. This amendment is about transparency and about good government. I would ask for my colleagues on both

sides of the aisle to support this. It doesn't matter when this information is provided, and this proprietary nature of the data argument just doesn't wash when we are spending this much money on decisions and we are trusting these States to manage to a standard that they are not even allowed to look at.

Thank you, Mr. Chairman. I ask for a recorded vote.

Senator Carper. All right, you will get one.

Senator Capito.

Senator Capito. Thank you, Mr. Chairman. I want to thank Senator Lummis for her good government transparency amendment. I will be in support of it. I think she makes a great case that these decisions we are making have huge impacts, and why wouldn't we share the data with our State partners. So I am voting in favor of the Lummis amendment.

Senator Carper. All right, thank you. Does any other Senator care to be recognized on Lummis Number 1? Anyone else?

All right. If not, I now move to adopt Lummis Amendment Number 1 to S. 2372. Is there a second?

Senator Capito. Second.

Senator Carper. The Clerk will call the roll.

The Clerk. Mr. Boozman?

Senator Boozman. Yes.

The Clerk. Ms. Capito?

Senator Capito. Yes.

The Clerk. Mr. Cardin?

Senator Cardin. No.

The Clerk. Mr. Cramer?

Senator Cramer. Yes.

The Clerk. Ms. Duckworth?

Senator Carper. Duckworth votes no by proxy.

The Clerk. Ms. Ernst?

Senator Capito. Ernst is yes, by proxy.

The Clerk. Mr. Graham?

Senator Capito. Yes, by proxy.

The Clerk. Mr. Inhofe?

Senator Capito. Yes, by proxy.

The Clerk. Mr. Kelly?

Senator Carper. No, by proxy.

The Clerk. Ms. Lummis?

Senator Lummis. Aye.

The Clerk. Mr. Markey?

Senator Carper. No, by proxy.

The Clerk. Mr. Merkley?

Senator Carper. No, by proxy.

The Clerk. Mr. Padilla?

Senator Carper. No, by proxy.

The Clerk. Mr. Sanders?

Senator Carper. No, by proxy.

The Clerk. Mr. Shelby?

Senator Capito. Yes, by proxy.

The Clerk. Ms. Stabenow?

Senator Carper. No, by proxy.

The Clerk. Mr. Sullivan?

Senator Sullivan. Aye.

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. Chairman, the yeas are 10, the nays are 10.

Senator Carper. Yeas are 10, the nays are 10. The amendment is defeated. Thank you again very much.

Senator Cardin, then Senator Sullivan, we will go to you next. Senator Cardin has an amendment he would like to offer, Cardin Amendment Number 1.

Senator Cardin. I appreciate that my Republican friends are here to listen to it. I am sorry my Democratic friends are not.

I am a little bit perplexed as to this amendment having been even controversial. It codifies an existing program so it takes on the turf of the Congress rather than the Executive

Branch. It is our responsibility to do this. It has been in existence since 1985. There are no substantive changes in regard to how the program operates. And it provides balance between how the underlying bill operates and coastal habitat restoration.

It is a voluntary program. There is no land issue here as far as private ownership is concerned. So we don't get involved in any of our traditional controversial areas.

That is why the bill that I introduced with Senator Graham, a bipartisan bill, was introduced in June of last year. I recognize that we need to be able to act on bills in this committee. This Wildlife Bill has been involved, and we have had discussions about it.

But those of us who live in coastal areas are entitled to have our considerations as well. We all want to work in a cooperative way. But I haven't heard one reason why we shouldn't move this bill forward. We have had no hearings in the committee. I don't know why; the House has had hearings on it, the Senate has not had hearings on it.

So quite frankly, Mr. Chairman, I am frustrated as to why we have not been able to get the same type of considerations on coastal habitat we have as we have on the underlying bill. That is the reason this amendment is being offered. As I said, it is bipartisan. I would just like to get an explanation from the

committee why this would be opposed.

Senator Carper. Do other Senators care to be recognized on this amendment? If not, I now move to adopt Cardin Amendment Number 1 to S. 2372.

Senator Sullivan. Mr. Chairman, may I ask Senator Cardin, does this program already exist?

Senator Cardin. Yes, it does.

Senator Sullivan. So what does it do in addition to it already existing?

Senator Cardin. Statutory --

Senator Sullivan. You know, I am always, when States are trying to get a little help, I am open ears, right, I am always trying to get a little help for my State, and you will see that in a minute.

Senator Cardin. I appreciate the question. It provides a statutory base but it also provides an authorized level.

Senator Sullivan. You mean on funding.

Senator Cardin. On funding. Right now, there is no authorized level. The current appropriation, I think it is \$18 million that is currently being spent in this program. We have an authorized level starting at \$20 million, going up to \$25 million. So that would be new authorization. There is no authorization today.

And the actual appropriation is \$18 million today.

Senator Sullivan. So it is plussing up the --

Senator Cardin. No, there is no appropriation here. It is just an authorized level.

Senator Sullivan. Right. So it is authorizing more for an existing program?

Senator Cardin. That is correct. A program that is currently being, is operative, but is not under statutory authority.

Senator Sullivan. Okay.

Senator Cardin. The appropriators must have done it at some point over the years. We are taking on our committee's jurisdiction here by putting it in the Code.

Senator Sullivan. Is there -- I mean, I am just throwing this out, and I don't want to get in front of the Ranking Members, is there interest in trying to, I am just trying to understand this. I get nervous about easements and things in my State. But if your State wants that, I am just --

Senator Cardin. It is a totally voluntary program. So it has to be initiated by the owner, whether it is public or private. This is strictly a voluntary program, and it is technical support for those who want to move in this direction to deal with habitat on coastal areas.

Senator Capito. [Presiding.] Would you like for me to weigh in here?

Senator Sullivan. Yes.

Senator Capito. I am going to oppose this amendment, not because I oppose the coastal program. I heard Senator Cardin discuss this in the earlier meeting along with Senator Whitehouse. I did raise the question, which I think they gave me a good answer to, as to whether the existing bill could help with some of the coastal wildlife. It seems like it is not flexible enough to really use that for the State Fish and Wildlife folks, which is the crux of this.

But we struck, it was difficult to get to where we are right now in trying to negotiate all the different things. So I would like to work with you and Senator Graham to have a hearing and bring this before the committee and discuss it, so we could all appreciate where it is falling short because it hasn't been reauthorized. To me, that would be the preferred route.

Senator Sullivan. I would support that, too, to work with you, in really good faith.

Senator Cardin. Our problem is that, I regret we haven't had a hearing on it. I think we should have had a hearing. We introduced it earlier in this Congress.

The challenge is that if the underlying bill becomes the only vehicle we have available, the absence of action on our committee makes it virtually difficult, because it will probably end up in some omnibus bill along the way, and the fact that we

have no committee action on it means that it will be left by the side. That is my frustration, Mr. Chairman. I don't disagree with the Ranking Member or the Senator from Alaska. We should have those discussions. I am more than happy. That is why we introduced it as current practice rather than looking at changes, because we knew that we hadn't had that discussion. I would welcome having that discussion.

But my concern is that if this committee takes a pass on it at this particular moment, the odds are we will not get back to it in this Congress.

Senator Sullivan. Could we delay the vote on the underlying bill that it would be attached to so that you don't have that problem?

Senator Cardin. That is fine with me, if we have the Chairman and Ranking Member willing to do that. They have to sign off on any opportunity for this bill to move forward. If I have their assurances, I would be fine with that.

Senator Carper. [Presiding.] For now, I am just going to suggest we go ahead and vote. If the votes are there, fine, if they are not, what you both, the Ranking Member and Senator Sullivan suggested, for us to re-engage, maybe with the scheduling of a hearing in a timely manner. But for now, I would like for us to go ahead and vote.

With that, does any other Senator want to be recognized?

All right, if not, then the Clerk will call the roll on Cardin Amendment Number 1 to S. 2372.

The Clerk. Mr. Boozman?

Senator Boozman. No, by proxy.

The Clerk. Ms. Capito?

Senator Capito. No.

The Clerk. Mr. Cardin?

Senator Cardin. Aye.

The Clerk. Mr. Cramer?

Senator Capito. No, by proxy.

The Clerk. Ms. Duckworth?

Senator Cardin. Yes, by proxy.

The Clerk. Ms. Ernst?

Senator Capito. No, by proxy.

The Clerk. Mr. Graham?

Senator Capito. No, by proxy.

The Clerk. Mr. Inhofe?

Senator Capito. No, by proxy.

The Clerk. Mr. Kelly?

Senator Cardin. Aye, by proxy.

The Clerk. Ms. Lummis?

Senator Capito. No, by proxy.

The Clerk. Mr. Markey?

Senator Cardin. Aye, by proxy.

The Clerk. Mr. Merkley?

Senator Cardin. Aye, by proxy.

The Clerk. Mr. Padilla?

Senator Cardin. Aye, by proxy.

The Clerk. Mr. Sanders?

Senator Cardin. Aye, by proxy.

The Clerk. Mr. Shelby?

Senator Capito. No, by proxy.

The Clerk. Ms. Stabenow?

Senator Cardin. Aye, by proxy.

The Clerk. Mr. Sullivan?

Senator Sullivan. No for now. But I will work with you,
Ben.

The Clerk. Mr. Whitehouse?

Senator Cardin. Aye, by proxy.

The Clerk. Mr. Wicker?

Senator Capito. No, by proxy.

The Clerk. Mr. Chairman?

Senator Carper. Aye.

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

Senator Capito. [Presiding.] Okay, the amendment fails.

And we are asking for additional amendments. Does anybody have
an amendment? Senator Sullivan?

Senator Sullivan. Yes, Madam Chair. I have three

amendments. I will try to be brief. I would like to call up Sullivan Number 1. This is to make additional federal land available for selection under the Alaska Native Vietnam Era Veterans Allotment Act. Madam Chair, dating back to the early 20th century, there were various federal programs that existed to grant Alaska Natives parcels of land in Alaska, up to 160 acres. That dated back to 1909.

In 1971, the Alaska Native Claims Settlement Act extinguished the ability of Alaska Natives to select these land allotments. However, thousands of Alaska Natives served their Country during the Vietnam era, and they missed this deadline. So here you have indigenous people in my State serving in a war that a lot of American men were trying to avoid, and they missed the deadline to apply for these allotments. Total injustice.

In 2019, we passed the Dingle Act, bipartisan, that included my bill, the Alaska Native Vietnam Era Veterans Lands Allotment Act. That just said, if you were serving in the military during the Vietnam era, you have a chance to apply for an allotment which you missed because you were serving your Country in the military.

This program allows approximately 2,800 Alaska Natives, by the way, who serve at higher rates in the military than any other ethnic group in the Country, to apply for Congressionally promised Native allotments that they missed the opportunity to

do so because they were serving and fighting in the jungles of Vietnam. Pretty strong equity issues.

These land selections were largely limited to BLM but the Dingle Act, which passed, said U.S. Fish and Wildlife Service would study whether to make lands available for this program also. Fish and Wildlife Service, in accordance with the law, issued a study and recommended additional acreage to be included in the lands available from which Alaska Native Vietnam Era Veterans could choose. All my bill does is take what Fish and Wildlife Service said, said here is the additional land that you can choose from.

There is a lot of talk in this committee and this Senate about taking care of our veterans. This is 100 percent taking care of our veterans. There is a lot of talk, particularly my friends on the other side of the aisle, about racial equity, environmental justice, racial justice. This is 100 percent racial equity. These were men and women who are indigenous people serving in Vietnam, and when they came home they not only got spit on because they were Vietnam veterans, not only got discriminated against because they are Alaska Native, but they were then told, you can't apply for your allotment, which you have been able to do for 100 years.

All we are trying to do is fix it. If you believe in supporting our vets and you believe in racial equity, this

should be a unanimous vote, Madam Chair.

Senator Capito. Thank you, Senator Sullivan. I plan to support your amendment. At this point, because we are waiting for people to come back from a vote, I will suspend the vote on this and you can go to your next amendment, make the case for that.

Senator Sullivan. Okay, Madam Chair. This is another one, if you believe in racial equity, this is simple, too. This is Sullivan Number 2 to clarify treatment of authentic Alaska Native articles of handicrafts containing non-edible migratory bird parts under the Migratory Treaty Bird Act.

So let me just explain this one. For thousands of years, inclusion of bones, feathers, and non-edible parts in traditional handicrafts from Alaska Native people was commonplace in Alaska Native cultures. However, in light of, a number of years ago, when widely celebrated Tlingit artists were cited by Fish and Wildlife Service for including feathers in a piece offered for sale, somebody actually got fined for that in Alaska.

The result was the Alaska Federation of Natives passed a resolution saying, we need a legislative fix to this problem. We are not going to eat the birds, but we can use their feathers for handicrafts.

Now, why does that matter? In certain Alaska Native

villages, the men and women who create handicrafts are the number one economic drivers of these communities. Because they can sell their handicrafts to tourists and things like this.

All this amendment does, it would recognize the legitimate subsistencies of Alaska Natives and allow the sale of handicrafts that include non-edible migratory bird parts. That is it.

Handicraft sales are often small but important parts of the economic activity for our Native villages. Other laws, such as the Marine Mammal Protection Act, include similar subsistence exemptions for other species and this amendment seeks to apply equal treatment for this subset of the Alaska Native artistic community.

The amendment is unanimously supported by the Alaska Native members from the Migratory Bird Ecomanagement Council, the Alaska Federation of Natives. Again, racial equity for disadvantaged communities. This is a no-brainer. We hope that we can pass that as well.

Senator Capito. Again, I would ask my colleagues to support this amendment. It is an interesting amendment, really, when you think about the culture and the economic opportunities that that brings.

So I would hope that we can have a successful vote on that. But we are going to suspend the vote on that and let you go to

number three.

Senator Sullivan. Sullivan Number 3, thank you, Madam Chair. This is a simple amendment. It just makes the sub-account here subject to appropriations. We recognize this is important legislation that we are debating, conserving America's countless species of plants, wildlife as a knowable cause. We care about it back home in Alaska.

However, funding decisions for this cause should be made on an annualized basis the way other appropriations bills are. Singling out this bill for permanent funding I don't think makes sense.

This bill is not the answer to a broken Endangered Species Act problem. The bill turns a blind eye to the fact that States and federal agencies are at the mercy of serial litigants who abuse the ESA. This is a huge problem in my State. This bill does not propose a realistic pay-for, \$1.3 billion on new annual mandatory spending is provided by this bill. This bill should go through the normal appropriations process that most every other bill in the U.S. Senate goes through. That is what my amendment would do.

Senator Capito. Thank you, Senator Sullivan. I again will urge my colleagues to vote yes on this amendment. I am on the Appropriations Committee, and I think it is right and proper that we know this bill has some, when we get the score back, it

is going to have some issues in terms of the pay-for. So I think this is a responsible way to go.

So if we can suspend right now, we are going to see how we go forward here.

[Pause.]

The committee stands in recess until 1:30, when we will meet in the President's Room.

[Whereupon, at 12:45 p.m., the committee was recessed, to reconvene the same day at 1:30 in the President's Room.]

[1:30 p.m.]

Senator Carper. [Presiding.] I now move that we adopt the Sullivan Amendment Number 1 to S. 2372. The Clerk will call the roll.

The Clerk. Mr. Boozman?

Senator Boozman. Yes.

The Clerk. Ms. Capito?

Senator Capito. Yes.

The Clerk. Mr. Cardin?

Senator Cardin. No.

The Clerk. Mr. Cramer?

Senator Capito. Yes, by proxy.

The Clerk. Ms. Duckworth?

Senator Duckworth. No.

The Clerk. Ms. Ernst?

Senator Capito. Yes, by proxy.

The Clerk. Mr. Graham?

Senator Capito. Yes, by proxy.

The Clerk. Mr. Inhofe?

Senator Capito. Yes, by proxy.

The Clerk. Mr. Kelly?

Senator Carper. No, by proxy.

The Clerk. Ms. Lummis?

Senator Capito. Yes, by proxy.

The Clerk. Mr. Markey?

Senator Markey. No.

The Clerk. Mr. Merkley?

Senator Carper. No, by proxy.

The Clerk. Mr. Padilla?

Senator Padilla. No.

The Clerk. Mr. Sanders?

Senator Carper. No, by proxy.

The Clerk. Mr. Shelby?

Senator Capito. Yes, by proxy.

The Clerk. Ms. Stabenow?

Senator Carper. No, by proxy.

The Clerk. Mr. Sullivan?

Senator Capito. Yes, by proxy.

The Clerk. Mr. Whitehouse?

Senator Whitehouse. No.

The Clerk. Mr. Wicker?

Senator Capito. Yes, by proxy.

The Clerk. Mr. Chairman?

Senator Carper. No.

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

Senator Carper. The yeas are 10, the nays are 10, and the
+amendment fails.

I now move to adopt Sullivan Amendment Number 2 to S. 2372.

Is there a second?

Senator Capito. Second.

Senator Carper. The Clerk will call the roll.
roll.

The Clerk. Mr. Boozman?

Senator Boozman. Yes.

The Clerk. Ms. Capito?

Senator Capito. Yes.

The Clerk. Mr. Cardin?

Senator Cardin. No.

The Clerk. Mr. Cramer?

Senator Capito. Yes, by proxy.

The Clerk. Ms. Duckworth?

Senator Duckworth. No.

The Clerk. Ms. Ernst?

Senator Capito. Yes, by proxy.

The Clerk. Mr. Graham?

Senator Capito. Yes, by proxy.

The Clerk. Mr. Inhofe?

Senator Capito. Yes, by proxy.

The Clerk. Mr. Kelly?

Senator Carper. No, by proxy.

The Clerk. Ms. Lummis?

Senator Capito. Yes, by proxy.

The Clerk. Mr. Markey?

Senator Markey. No.

The Clerk. Mr. Merkley?

Senator Carper. No, by proxy.

The Clerk. Mr. Padilla?

Senator Padilla. No.

The Clerk. Mr. Sanders?

Senator Carper. No, by proxy.

The Clerk. Mr. Shelby?

Senator Capito. Yes, by proxy.

The Clerk. Ms. Stabenow?

Senator Carper. No, by proxy.

The Clerk. Mr. Sullivan?

Senator Capito. Yes, by proxy.

The Clerk. Mr. Whitehouse?

Senator Whitehouse. No.

The Clerk. Mr. Wicker?

Senator Capito. Yes, by proxy.

The Clerk. Mr. Chairman?

Senator Carper. No.

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

Senator Carper. The yeas are 10, and the nays are 10. The amendment fails.

Now I move to adopt Sullivan Amendment Number 3 to S. 2372.

Is there a second?

Senator Capito. Second.

Senator Carper. The Clerk will call the roll.

The Clerk. Mr. Boozman?

Senator Boozman. Yes.

The Clerk. Ms. Capito?

Senator Capito. Yes.

The Clerk. Mr. Cardin?

Senator Cardin. No.

The Clerk. Mr. Cramer?

Senator Capito. Yes, by proxy.

The Clerk. Ms. Duckworth?

Senator Duckworth. No.

The Clerk. Ms. Ernst?

Senator Capito. Yes, by proxy.

The Clerk. Mr. Graham?

Senator Capito. Yes, by proxy.

The Clerk. Mr. Inhofe?

Senator Capito. Yes, by proxy.

The Clerk. Mr. Kelly?

Senator Carper. No, by proxy.

The Clerk. Ms. Lummis?

Senator Capito. Yes, by proxy.

The Clerk. Mr. Markey?

Senator Markey. No.

The Clerk. Mr. Merkley?

Senator Carper. No, by proxy.

The Clerk. Mr. Padilla?

Senator Padilla. No.

The Clerk. Mr. Sanders?

Senator Carper. No, by proxy.

The Clerk. Mr. Shelby?

Senator Capito. Yes, by proxy.

The Clerk. Ms. Stabenow?

Senator Carper. No, by proxy.

The Clerk. Mr. Sullivan?

Senator Capito. Yes, by proxy.

The Clerk. Mr. Whitehouse?

Senator Whitehouse. No.

The Clerk. Mr. Wicker?

Senator Capito. Yes, by proxy.

The Clerk. Mr. Chairman?

Senator Carper. No.

The Clerk. Mr. Chairman, the yeas are 9, the nays are 11.

Senator Carper. The yeas are 9, the nays are 11. The amendment has failed.

[Simultaneous conversations.]

Senator Carper. I now move that the committee report S.

2372, the Recovering America's Wildlife Act of 2021, as amended.

Is there a second?

Senator Capito. Second.

Senator Carper. The Clerk will call the roll.

The Clerk. Mr. Boozman?

Senator Boozman. Yes.

The Clerk. Ms. Capito?

Senator Capito. Yes.

The Clerk. Mr. Cardin?

Senator Cardin. Yes.

The Clerk. Mr. Cramer?

Senator Capito. No, by proxy.

The Clerk. Ms. Duckworth?

Senator Duckworth. Yes.

The Clerk. Ms. Ernst?

Senator Capito. No, by proxy.

The Clerk. Mr. Graham?

Senator Capito. Yes, by proxy.

The Clerk. Mr. Inhofe?

Senator Capito. Yes, by proxy.

The Clerk. Mr. Kelly?

Senator Kelly. Aye.

The Clerk. Ms. Lummis?

Senator Capito. No, by proxy.

The Clerk. Mr. Markey?

Senator Markey. Aye.

The Clerk. Mr. Merkley?

Senator Carper. Aye, by proxy.

The Clerk. Mr. Padilla?

Senator Padilla. Aye.

The Clerk. Mr. Sanders?

Senator Carper. Aye, by proxy.

The Clerk. Mr. Shelby?

Senator Capito. No, by proxy.

The Clerk. Ms. Stabenow?

Senator Stabenow. Aye.

The Clerk. Mr. Sullivan?

Senator Capito. No, by proxy.

The Clerk. Mr. Whitehouse?

Senator Carper. Aye, by proxy.

The Clerk. Mr. Wicker?

Senator Capito. Yes, by proxy.

The Clerk. Mr. Chairman?

Senator Carper. Aye.

The Clerk. Chairman, the yeas are 15, the nays are 5.

Senator Carper. Would anyone like to be recorded live?

Senator Capito. Senator Lummis, no.

The Clerk. Thank you. The yeas are 15, the nays are 5.

Senator Carper. The yeas are 15 and the nays are 5, the bill is approved as amended, and the bill passes. I think that is it. It is a wrap. Thanks for coming.

[Whereupon, at 1:46 p.m., the business meeting was adjourned.]