

BUSINESS MEETING

Thursday, May 2, 2019

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
WASHINGTON, DC.

1 The committee met, pursuant to notice, at 9:30 a.m. in Room S-116,
2 Dirksen Senate Office Building, Hon. James E. Risch, chairman of the committee,
3 presiding.

4 Present: Senators Risch [presiding], Rubio, Gardner, Romney, Graham,
5 Barrasso, Portman, Young, Cruz, Menendez, Cardin, Udall, Murphy, Kaine, and
6 Markey.

7 **THE CHAIRMAN.** The committee will come to order.

8 This morning we are here for a business meeting to consider nominations,
9 and we have in front of us 10 nominations. One is going to be taken down until
10 our next business meeting.

11 The list has been published. Without objection, I am not going to read
12 that list unless someone has not read the list and thinks they need to go over it,
13 but these have all been considered by the committee for some time, and it is my

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1 intent to vote *en banc*, with the exception of Mr. Cairncross and Mr. Destro,
2 which the Ranking Member has indicated they wish a roll call vote on.

3 **SENATOR KAINE.** Mr. Chair, could I ask for a roll call vote on Mr. David
4 Schenker?

5 **THE CHAIRMAN.** And Mr. Schenker? There will be a roll call on Mr.
6 Schenker.

7 Senator Menendez, I will give you the floor.

8 **SENATOR MENENDEZ.** Thank you, Mr. Chairman.

9 Mr. Chairman, before I discuss the business before the committee, I want
10 to take a point of personal privilege. We will not be here in session tomorrow,
11 but I understand there is a great occasion tomorrow, and that is your birthday.

12 So in advance of that, let me just say: Happy birthday to you.

13 [Members sing Happy Birthday.]

14 [Applause.]

15 **THE CHAIRMAN.** On personal privilege, number one, if I could fire you, I
16 would.

17 [Laughter.]

1 **THE CHAIRMAN.** Number two, if I knew this was going to happen, I would
2 not have run for Chairman.

3 [Laughter.]

4 **THE CHAIRMAN.** And number three, I do not count birthdays anymore.

5 [Laughter.]

6 **THE CHAIRMAN.** Moving on, thank you very much, everyone. I appreciate
7 it.

8 **SENATOR MENENDEZ.** It just shows you how we can all come together.

9 **THE CHAIRMAN.** Yes, let's do that.

**STATEMENT OF HON. BOB MENENDEZ,
U.S. SENATOR FROM NEW JERSEY**

10 **SENATOR MENENDEZ.** We have several nominations on today's agenda,
11 most of which I support. I want to reiterate my focus on ensuring that the next
12 mark-up includes meaningful legislation. The committee is at its best when we
13 are working together to help shape U.S. foreign policy, and that requires
14 legislation.

15 I would like to speak about a few of the nominees on today's agenda.

1 First of all, I would just note that I understand one of the members has
2 asked for the nominee, a career diplomat, to be held in reference to the nuclear
3 nonproliferation. I respect every member's right to do this. This will now be a
4 third career diplomat that has been held either on the floor or in the committee
5 by a Republican. So when I hear a chorus of voices that we are not moving
6 enough nominees, including those that have been moved out of the committee, I
7 would note that our Republican colleagues are holding up individuals, including
8 career nominees.

9 I am, however, pleased that Brian Bulatao, the nominee for Under
10 Secretary for Management, has been added to today's agenda, as the Secretary of
11 State's right-hand man responsible for managing the internal business of the
12 Department. I expect he will do an excellent job.

13 However, I am disappointed that it has taken us so long to vote on Mr.
14 Bulatao. Last summer I requested documents related to political targeting of the
15 State Department, and it took nearly a year for the Administration to finally
16 engage in a negotiation to provide me with the necessary documents. As I have
17 said before, targeting career foreign and civil service officers because of their
18 political beliefs is unacceptable.

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1 I support Ambassador Satterfield's nomination, and I trust that his
2 impressive experience at State and around the world will serve him well in
3 Ankara. We have a number of serious challenges there, and it is no secret that
4 the bilateral relationship with Turkey is strained. I have particular concerns
5 about the Turkish relationship with Russia, whose potential acquisition of the S-
6 400 system, its military presence in Cyprus, and violations of weak air space
7 have also called into question its reliability as a NATO partner.

8 I will note that my support of Ambassador Satterfield's nomination is
9 despite his answer to me on the indisputable historic truth of the Armenian
10 genocide. I plan to follow up on this issue, as well as my questions concerning
11 what concrete actions he would take to address the declining human rights
12 situation in Turkey.

13 Let me speak briefly on the nomination of Kate Byrnes to North
14 Macedonia, which I strongly support. North Macedonia and Greece made the
15 Prespa Agreement in June 2018. North Macedonia currently seeks accession to
16 NATO. The U.S. ambassador there will need to ensure North Macedonia meets
17 its NATO goals, as well as implements all the provisions of the Prespa

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1 Agreement, and I am confident that Ms. Byrnes has the diplomatic experience
2 and good judgment to see these goals through.

3 Finally, I will be opposing the nomination of Mr. Destro to the Bureau of
4 Democracy, Human Rights, and Labor. That bureau leads many of the State
5 Department's most significant efforts to advance American values, including the
6 rule of law, democracy, individual rights, religious freedom, and labor rights. Its
7 programs train NGOs and civil society leaders to try to turn the principles of
8 democracy into practice, to combat violence and discrimination against women,
9 LGBTI persons, and other minorities.

10 Ensuring that all people have the tools to participate freely in the life of
11 their societies is critical to the security, stability, prosperity, peace, and progress
12 that we are seeking around the world. But our national security and foreign
13 policy goals can only be realized in bold, assertive, and principled American
14 leadership on these fundamental issues. I do not believe Mr. Destro can be that
15 leader. His long-held views and deeply troubling public statements on a wide
16 range of issues, particularly around LGBTI issues and women's rights, give me
17 great pause, and I cannot in good faith support his nomination.

1 I still have a number of concerns concerning the nomination of Sean
2 Cairncross to be the CEO of the Millennium Challenge Corporation.
3 Nevertheless, I want to thank you, Mr. Chairman, for your joint commitment to
4 MCC oversight.

5 And with that, I look forward to supporting the rest of the agenda.

6 **THE CHAIRMAN.** Thank you very much.

7 Anything else before we move on?

8 [No response.]

9 **THE CHAIRMAN.** If not, we are going to vote on six: Mr. Crawford, Mr.
10 Gilmore, Mr. Satterfield, Mr. Swendiman, Ms. Byrnes, and Mr. Bulatao, and we
11 will do so by voice vote, unless there is objection.

12 There being none, all those in favor of the confirmation of those six, please
13 signify by saying aye.

14 [Chorus of ayes.]

15 **THE CHAIRMAN.** Opposed, nay?

16 [No response.]

17 **THE CHAIRMAN.** The ayes have it, and those six are approved.

18 We will now take up individually Cairncross, Destro, and Schenker.

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1 The first one is Mr. Sean Cairncross.

2 The Clerk will call the roll.

3 **THE CLERK.** Mr. Rubio?

4 **SENATOR RUBIO.** Aye.

5 **THE CLERK.** Mr. Johnson?

6 **THE CHAIRMAN.** Aye by proxy.

7 **THE CLERK.** Mr. Gardner?

8 **SENATOR GARDNER.** Aye.

9 **THE CLERK.** Mr. Romney?

10 **SENATOR ROMNEY.** Aye.

11 **THE CLERK.** Mr. Graham?

12 **SENATOR GRAHAM.** Aye.

13 **THE CLERK.** Mr. Isakson?

14 **THE CHAIRMAN.** Aye by proxy.

15 **THE CLERK.** Mr. Barrasso?

16 **SENATOR BARRASSO.** Aye.

17 **THE CLERK.** Mr. Portman?

18 **SENATOR PORTMAN.** Aye.

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1 **THE CLERK.** Mr. Paul?

2 **THE CHAIRMAN.** Aye by proxy.

3 **THE CLERK.** Mr. Young?

4 **SENATOR YOUNG.** Aye.

5 **THE CLERK.** Mr. Cruz?

6 **SENATOR CRUZ.** Aye.

7 **THE CLERK.** Mr. Menendez?

8 **SENATOR MENENDEZ.** No.

9 **THE CLERK.** Mr. Cardin?

10 **SENATOR CARDIN.** No.

11 **THE CLERK.** Ms. Shaheen?

12 **SENATOR MENENDEZ.** No by proxy.

13 **THE CLERK.** Mr. Coons?

14 **SENATOR MENENDEZ.** Aye by proxy.

15 **THE CLERK.** Mr. Udall?

16 **SENATOR UDALL.** No.

17 **THE CLERK.** Mr. Murphy?

18 **SENATOR MURPHY.** No.

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1 **THE CLERK.** Mr. Kaine?

2 **SENATOR KAINE.** No.

3 **THE CLERK.** Mr. Markey?

4 **SENATOR MARKEY.** No.

5 **THE CLERK.** Mr. Merkley?

6 **SENATOR MENENDEZ.** No by proxy.

7 **THE CLERK.** Mr. Booker?

8 **SENATOR MENENDEZ.** No by proxy.

9 **THE CLERK.** Mr. Chairman?

10 **THE CHAIRMAN.** Aye.

11 The Clerk will report.

12 **THE CLERK.** Mr. Chairman, the yeas are 13, the nays are 9.

13 **THE CHAIRMAN.** The motion has passed.

14 We will take up Mr. Destro.

15 The Clerk will call the roll.

16 **THE CLERK.** Mr. Rubio?

17 **SENATOR RUBIO.** Aye.

18 **THE CLERK.** Mr. Johnson?

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1 THE CHAIRMAN. Aye by proxy.

2 THE CLERK. Mr. Gardner?

3 SENATOR GARDNER. Aye.

4 THE CLERK. Mr. Romney?

5 SENATOR ROMNEY. Aye.

6 THE CLERK. Mr. Graham?

7 SENATOR GRAHAM. Aye.

8 THE CLERK. Mr. Isakson?

9 THE CHAIRMAN. Aye by proxy.

10 THE CLERK. Mr. Barrasso?

11 SENATOR BARRASSO. Aye.

12 THE CLERK. Mr. Portman?

13 SENATOR PORTMAN. Aye.

14 THE CLERK. Mr. Paul?

15 THE CHAIRMAN. Aye by proxy.

16 THE CLERK. Mr. Young?

17 SENATOR YOUNG. Aye.

18 THE CLERK. Mr. Cruz?

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1 **SENATOR CRUZ.** Aye.

2 **THE CLERK.** Mr. Menendez?

3 **SENATOR MENENDEZ.** No.

4 **THE CLERK.** Mr. Cardin?

5 **SENATOR CARDIN.** No.

6 **THE CLERK.** Ms. Shaheen?

7 **SENATOR MENENDEZ.** No by proxy.

8 **THE CLERK.** Mr. Coons?

9 **SENATOR MENENDEZ.** No by proxy.

10 **THE CLERK.** Mr. Udall?

11 **SENATOR UDALL.** No.

12 **THE CLERK.** Mr. Murphy?

13 **SENATOR MURPHY.** No.

14 **THE CLERK.** Mr. Kaine?

15 **SENATOR KAINE.** No.

16 **THE CLERK.** Mr. Markey?

17 **SENATOR MARKEY.** No.

18 **THE CLERK.** Mr. Merkley?

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1 **SENATOR MENENDEZ.** No by proxy.

2 **THE CLERK.** Mr. Booker?

3 **SENATOR MENENDEZ.** No by proxy.

4 **THE CLERK.** Mr. Chairman?

5 **THE CHAIRMAN.** Aye.

6 The Clerk will report.

7 **THE CLERK.** Mr. Chairman, the yeas are 12, the nays are 10.

8 **THE CHAIRMAN.** The motion has passed.

9 We will now consider the appointment of Mr. David Schenker.

10 **SENATOR KAINE.** May I speak to the nomination?

11 **THE CHAIRMAN.** You may. I am sorry. Absolutely.

12 **SENATOR KAINE.** Mr. Chair, I have been in the Senate now for six-and-a-
13 half years, and I have only placed a hold on one nominee, and it is on David
14 Schenker. I want to explain why.

15 I vote yes or I vote no depending on the qualifications, but I have had a
16 hold on this nominee, and I want to explain why. I do not challenge his
17 qualifications for the position.

1 The Trump Administration launched missile strikes against Syria in April
2 of 2017 based on a legal memorandum that is unclassified that I believe, as a
3 member of this body and from this committee and the Armed Services
4 Committee, I have a right to see. I asked the Administration to provide that
5 memo in April of 2017; they refused. I continued to ask for a year.

6 In the spring of 2018, many things happened about the same time. Mr.
7 Schenker was nominated for this position. Secretary Pompeo was nominated to
8 be Secretary of State after the resignation of Rex Tillerson, and the Trump
9 Administration launched missile strikes against Syria.

10 I continued to ask for the 2017 legal memo. When Secretary Pompeo was
11 before us a year ago, I asked him would he work with me to get me to read the
12 memo that I believe I and other members of this committee are entitled to see
13 because it lays out the Administration's belief about their executive power to
14 take military action without coming to Congress for permission. Secretary
15 Pompeo indicated in that hearing that he would work with me to do it.

16 With no other lever, I put a hold on the Schenker nomination to try to
17 force the revelation of this legal memorandum. I have been in a discussion with

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1 Secretary Pompeo and the White House Counsel's Office now for a year, and
2 they still have not produced the memo.

3 I have asked for the memo because I think we are all entitled to see it.
4 They have not produced it. I have said give it to me in a classified setting, I will
5 take no notes on it; they have been unwilling to do that. Recently the White
6 House Counsel said we are not going to give you the memo, but why do you not
7 write a series of questions that we will answer about the memo. I sent them a
8 series of questions over a month ago. They have not answered them, and they
9 have given us, frankly, no indication that they will ever answer the questions.

10 I believe this memo -- and in my conversations with them, I have every
11 reason to believe the memo lays out the executive's belief about when they can
12 wage war without coming to this body, without coming to this committee.
13 Whether or not I agree with the memo, I think I am entitled to see it.

14 The refusal to give us this memo is now part of a very disturbing pattern
15 and activity with respect to this particular region. In March it was revealed that
16 the U.S. has approved a secret transfer of nuclear technology to Saudi Arabia. I
17 say secret because in the past, when administrations have approved these Part
18 A-10 transfers, they have made them public, both to the Congress and to the

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1 press, and to the American public. When we learned this via a press report in
2 March, we asked both Secretary Perry and Pompeo to give us information about
3 these nuclear transfers; they have refused.

4 We have understood that they have given some information to a House
5 committee, the House committee staff, and they said you cannot share this with
6 anyone under threat of prosecution.

7 We had a classified hearing recently, and I am not going to get into the
8 topic of it, but the classified hearing was made necessary because information
9 that the Administration should have shared with us about arms proliferation in
10 the region had not been shared with us. One of our members found out about it
11 and forced the Administration to come in and answer questions about it.

12 I am very, very concerned about, whether it is a legal memo about the
13 authorization of military action without coming to Congress, information about
14 nuclear transfers, information about arms proliferation in the region, we are not
15 being kept in the loop. That is why I put a hold on this nomination. I think it is
16 the only leverage I have to try to get information I think is relevant to the entire
17 committee, and I would urge my colleagues to vote no on Mr. Schenker.

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1 As soon as the information is provided, I will lift the hold and gladly
2 support his nomination. But they have been playing games with me now for two
3 years, so I am going to vote no.

4 **THE CHAIRMAN.** Thank you.

5 Senator Young was next.

6 **SENATOR YOUNG.** Thank you, Mr. Chairman.

7 I will be voting in support of the nomination.

8 That said, I do want to affirm my support for allowing the Senator to
9 exercise his prerogatives to look at this memo. I think our war powers have been
10 eroded over successive administrations, and it is very important that we have
11 access to these sorts of materials so we can duly perform our oversight roles.

12 **THE CHAIRMAN.** Thank you, Senator.

13 Senator Menendez?

14 **SENATOR MENENDEZ.** Mr. Chairman, I strongly support the right and, I
15 believe, the committee's institutional prerogative to have information that is
16 critical to our decision-making process when we are casting votes on critical
17 national security and foreign policy issues. I think that Senator Kaine is probably
18 one of the most reasonable members of this committee in trying to find comity

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1 whenever he can with his colleagues, and even with the Administration. So I
2 have supported him throughout this process in not allowing Mr. Schenker to
3 have a hearing, a mark-up, but I agreed that it was time to move him along.

4 I strongly support and would urge you, Mr. Chairman -- this is now a
5 disturbing pattern, and it does not matter to me who is sitting in the White
6 House. I hope we come to an understanding as an institution that, regardless of
7 who is sitting in the White House, there is certain critical information that we
8 need as a limited number of Americans, 100 of 320 million, that makes decisions
9 about their lives that affects whether or not we will send their sons and
10 daughters abroad into harm's way, that potentially affects global commerce, the
11 future of nuclear proliferation, and so much more, that we need this information.

12 And so when we have a classified hearing that only came about because I
13 instigated the classified hearing based on knowledge that I came by, instead of
14 that having come to us automatically by the Administration to inform us of a
15 critical issue that would have, if all members had had that knowledge, affected
16 how they voted on certain issues.

17 The reality is that this is a disturbing pattern. I am going to vote for Mr.
18 Schenker simply because I think we need an Assistant Secretary of State for this

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1 region. I fully continue to support Senator Kaine in his efforts. I will find other
2 means to join him in this effort, and I would urge you, Mr. Chairman, to help us
3 get to something that -- you know, whenever the Administration, this or any
4 other, when it is their decision-making view for when they can enter into conflict
5 in sending the sons and daughters of America into harm's way, they can assert
6 what their views are, but let us know what it is. Let us debate it in the Senate, as
7 we have in the past over previous resolutions that have taken us decades
8 beyond, and I hope you will join us in that effort.

9 But on this particular occasion, recognizing Senator Kaine's very
10 legitimate issues that really affect beyond his interests to all of our interests, I am
11 still going to support Mr. Schenker, but I am going to find other ways to try to
12 help the Senator get the information that he deserves.

13 **THE CHAIRMAN.** Senator Cardin?

14 **SENATOR CARDIN.** I just really want to concur strongly with Senator
15 Menendez' comments. Senator Kaine's request is very reasonable, whether it is a
16 Democratic or Republican member of this committee making that request, and
17 this committee should be supporting Senator Kaine in getting that information.

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1 I agree with Senator Menendez that Senator Kaine is absolutely within his
2 rights. On the whole, I do think it is important that we have a confirmed person
3 for this position, but I would urge the committee Chair to support Senator Kaine
4 as a member of this committee to get the information that he needs and that our
5 committee needs in order to properly act.

6 I thought it was extremely embarrassing the classified meeting we had to
7 have because information was not made available to this committee that should
8 have been made available to this committee. This is not a partisan issue. This is
9 the ability of this committee to conduct its work, and the issues Senator Kaine is
10 raising about executive authority and congressional responsibility, we need to
11 understand that. We need to understand how the Administration is acting on
12 what is our authority delegated to the executive branch.

13 So I would urge the committee Chair and Ranking Member to come to an
14 agreement so that this committee can get the information we need to carry out
15 our responsibility, which we do without partisan considerations.

16 So I will support the Ranking Member's decision and vote to confirm, but
17 I just urge, for the sake of our responsibilities, that the Chair find a way to get
18 this information to this committee.

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1 **THE CHAIRMAN.** Thank you very much.

2 Before we lose any more members, I want to get to a vote. But let me
3 briefly say this.

4 There are two issues here. One is Senator Kaine's issue on the war powers
5 matter. Senator Kaine -- I have been on this committee 11 years, and on Intel 11
6 years, and I have found Senator Kaine to be an absolute honest broker when it
7 comes to war powers matters.

8 I have sat through dozens and dozens and dozens of arguments between
9 the first branch and the second branch, with an army of lawyers on each side,
10 arguing why they do what they do and what powers they have. It has never
11 been resolved other than by argument. I think our branch of government needs
12 to continue to press to assert what our powers are in that regard. We always
13 have the power of the purse, of course, but we obviously have to have more than
14 just that, and I will certainly support the efforts in that regard.

15 As far as the classified information that Senator Menendez discovered, he
16 is absolutely right on that. That was classified information. Indeed, it was given
17 in the classified compliance report that we got a year ago, and nobody read it.
18 As I said before, this is a problem.

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1 Only Senator Rubio and I are on the Intel committee. There are 17 Intel
2 organizations. If you reduce the reports that they made every single day to
3 paper and put them in this room, they would fill this room, and then some. First
4 of all, the analysis is difficult, but then more importantly is placing it in the
5 appropriate place in the puzzle is difficult.

6 I can tell you there is lots and lots of stuff out there that we just do not
7 have time to deal with, and this falls into that category. I am not saying that was
8 wrong, Senator Menendez. You were right in that you were entitled to hear that
9 information and get it.

10 I am told we are going to lose members if we do not vote here --

11 **SENATOR MENENDEZ.** One second, Mr. Chairman. This is so critical.

12 We are not all privileged to be on the Intelligence Committee. That is not
13 an excuse for us not having critical information that directly bears on foreign
14 policy issues that this committee has exclusive jurisdiction over. They can
15 segment out and let us know when there is something that clearly falls within
16 this domain and give us a briefing. I have asked that the subject of that briefing
17 that we had that we have been referencing be a subject for all members, because I
18 think that all members need to have the opportunity to be briefed on that

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1 particular classified matter. I am making that request to Senator McConnell and
2 Senator Schumer. I hope you will join me in that effort.

3 **THE CHAIRMAN.** And I do not dispute anything that you say, Senator. I
4 appreciate that.

5 All right. We are all ready to vote.

6 We will vote on Mr. Schenker.

7 **THE CLERK.** Mr. Rubio?

8 **SENATOR RUBIO.** Aye.

9 **THE CLERK.** Mr. Johnson?

10 **THE CHAIRMAN.** Aye by proxy.

11 **THE CLERK.** Mr. Gardner?

12 **SENATOR GARDNER.** This is on Schenker? Aye.

13 **THE CLERK.** Mr. Romney?

14 **SENATOR ROMNEY.** Aye.

15 **THE CLERK.** Mr. Graham?

16 **THE CHAIRMAN.** Aye by proxy.

17 **THE CLERK.** Mr. Isakson?

18 **THE CHAIRMAN.** Aye by proxy.

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1 THE CLERK. Mr. Barrasso?

2 SENATOR BARRASSO. Aye.

3 THE CLERK. Mr. Portman?

4 SENATOR PORTMAN. Aye.

5 THE CLERK. Mr. Paul?

6 THE CHAIRMAN. Aye by proxy.

7 THE CLERK. Mr. Young?

8 SENATOR YOUNG. Aye.

9 THE CLERK. Mr. Cruz?

10 SENATOR CRUZ. Aye.

11 THE CLERK. Mr. Menendez?

12 SENATOR MENENDEZ. Aye.

13 THE CLERK. Mr. Cardin?

14 SENATOR CARDIN. Aye.

15 THE CLERK. Ms. Shaheen?

16 SENATOR MENENDEZ. Aye by proxy.

17 THE CLERK. Mr. Coons?

18 SENATOR MENENDEZ. Aye by proxy.

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1 **THE CLERK.** Mr. Udall?

2 **SENATOR UDALL.** No.

3 **THE CLERK.** Mr. Murphy?

4 **SENATOR MURPHY.** Aye.

5 **SENATOR MENENDEZ.** Aye -- aye by in person.

6 [Laughter.]

7 **THE CLERK.** Mr. Kaine?

8 **SENATOR KAINE.** No.

9 **THE CLERK.** Mr. Markey?

10 **SENATOR MARKEY.** No.

11 **THE CLERK.** Mr. Merkley?

12 **SENATOR MENENDEZ.** Aye by proxy.

13 **THE CLERK.** Mr. Booker?

14 **SENATOR MENENDEZ.** Aye by proxy.

15 **THE CLERK.** Mr. Chairman?

16 **THE CHAIRMAN.** Aye.

17 The Clerk will report.

18 **THE CLERK.** Mr. Chairman, the yeas are 19, the nays are 3.

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1 **THE CHAIRMAN.** Thank you. The motion has passed.

2 This will complete the business of the committee.

[Whereupon, at 9:55 a.m., the meeting was adjourned.]

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