

1 OPEN EXECUTIVE SESSION TO CONSIDER FAVORABLY REPORTING
2 THE NOMINATIONS OF JEFFREY GERRISH, OF MARYLAND, TO BE
3 DEPUTY UNITED STATES TRADE REPRESENTATIVE FOR ASIA,
4 EUROPE, THE MIDDLE EAST, AND INDUSTRIAL COMPETITIVENESS,
5 WITH THE RANK OF AMBASSADOR; GREGORY DOUD, OF KANSAS, TO
6 BE CHIEF AGRICULTURAL NEGOTIATOR, OFFICE OF THE UNITED
7 STATES TRADE REPRESENTATIVE, WITH THE RANK OF AMBASSADOR;
8 AND JASON KEARNS, OF COLORADO, TO BE A MEMBER OF THE
9 UNITED STATES INTERNATIONAL TRADE COMMISSION FOR THE TERM
10 EXPIRING DECEMBER 16, 2024
11 TUESDAY, OCTOBER 24, 2017
12 U.S. Senate,
13 Committee on Finance,
14 Washington, DC.

15 The hearing was convened, pursuant to notice, at
16 10:15 a.m., in room 215, Dirksen Senate Office Building,
17 Hon. Orrin G. Hatch (chairman of the committee)
18 presiding.

19 Present: Senators Grassley, Enzi, Cornyn, Thune,
20 Portman, Toomey, Heller, Scott, Cassidy, Wyden, Stabenow,
21 Cantwell, Nelson, Carper, Brown, Bennet, and Casey.

22 Also present: Republican Staff: Jay Khosla, Staff
23 Director; Christopher Armstrong, Deputy Chief Oversight
24 Counsel; Nicholas Wyatt, Tax and Nominations Professional
25 Staff Member; Shane Warren, Chief International Trade
26 Counsel; Queena Fan, Detailee; and Andrew Rollo,

1 Detailee. Democratic Staff: Joshua Sheinkman, Staff
2 Director; Michael Evans, General Counsel; Ian Nicholson,
3 Investigator; Greta Peisch, International Trade Counsel;
4 and Jayme White, Chief Advisor for International
5 Competitiveness and Innovation.
6

1 OPENING STATEMENT OF HON. ORRIN G. HATCH, A U.S. SENATOR
2 FROM UTAH, CHAIRMAN, COMMITTEE ON FINANCE

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4 The Chairman. So it appears that a quorum is now
5 present. We will now move to executive session to
6 consider the nominations of Mr. Kearns, Mr. Doud, and Mr.
7 Gerrish.

8 At this time, I would entertain a motion to
9 favorably report the nomination of Jason Kearns to be a
10 member of the United States International Trade
11 Commission.

12 Senator Wyden. Mt. Chairman, I so move.

13 The Chairman. Okay. Does any Senator require a
14 recorded vote?

15 [No response.]

16 The Chairman. Okay. Then all in favor, say "aye."

17 [A chorus of ayes.]

18 The Chairman. Any opposed?

19 [No response.]

20 The Chairman. Then he will be moved out. The
21 "ayes" have it. The nomination is ordered favorably
22 reported.

23 At this time, I would entertain a motion to
24 favorably report the nomination of Gregory Doud to be
25 Chief Agricultural Negotiator, Office of the United

1 States Trade Representative, with the rank of Ambassador.

2 Senator Wyden. I would so move, Mr. Chairman.

3 The Chairman. Okay. Does any Senator require a
4 recorded vote?

5 [No response.]

6 The Chairman. If not, then all of those in favor
7 will say "aye."

8 [A chorus of ayes.]

9 The Chairman. Any opposed, say "no."

10 [No response.]

11 The Chairman. The "ayes" have it. The nomination
12 is ordered favorably reported.

13 At this time, I would entertain a motion to
14 favorably report the nomination of Jeffrey Gerrish to be
15 Deputy United States Trade Representative for Asia,
16 Europe, the Middle East, and Industrial Competitiveness,
17 with the rank of Ambassador.

18 Senator Wyden. Mr. Chairman?

19 The Chairman. Yes, sir?

20 Senator Wyden. Before we vote on this nominee, I
21 would like to be heard briefly.

22 The Chairman. I would be happy to listen to you.

23 Senator Wyden. Colleagues, Mr. Gerrish cast a vote
24 in November's election in the Commonwealth of Virginia
25 where he did not live. He moved to Maryland in July of

1 2016, and he cast his vote well outside of the grace
2 period Virginia grants former residents.

3 It seems to me it takes a big error in judgment for
4 a lawyer as experienced as Mr. Gerrish to violate
5 election law. Mr. Gerrish did not choose to address the
6 issue in his opening statement, and when given the
7 opportunity to say this was a serious matter, he would
8 not agree with that either.

9 There is obviously some context here, because the
10 administration has made it clear that they think there is
11 a crisis of voter fraud out there. I do not happen to
12 agree with it, but certainly there is a real double-
13 standard when we are hearing about the dangers of voter
14 fraud all of the time and then we see a nominee coming up
15 who appears to have cast an illegal vote.

16 If I understand it, this matter of Mr. Gerrish's
17 vote was referred to the Commonwealth's Attorney's Office
18 in Fairfax, Virginia by both the Democrat and the
19 Republican who make up the Fairfax County Elections
20 Office. Because this matter has now been sent to the
21 appropriate law enforcement officials and the inquiry is
22 ongoing, I will not be able to support this nominee at
23 this time.

24 The Chairman. All right.

25 Senator Carper. Mr. Chairman, could I be heard on

1 this, please?

2 The Chairman. You sure can, Senator.

3 Senator Carper. A question of Senator Wyden, and,
4 perhaps, others -- my guess is, if we are honest in this
5 room and ask if anybody had ever gone back to their old
6 residence and voted in an election, we would find that a
7 number of people had done that, and probably in violation
8 of the law.

9 What troubles me about this is that if that was what
10 happened -- and we all live busy lives, live in one
11 place, work in another place, changes of residence,
12 raising a family, and sometimes you miss a chance to
13 change your registration in a timely way. If that is
14 what happened here, he should just say that. He should
15 just be honest about it. I screwed up. I should not
16 have done it. I realized -- I wanted to vote. If that
17 is all that it was, then this would be, as Harry Reid
18 used to say, a "nothing burger."

19 I am told, Mr. Chairman, that there is an
20 investigation that is going on. It is going to be
21 concluded at the end of this week.

22 I would ask you to consider just delaying this for
23 like a week, and for us to take it up next week. Looking
24 him over -- I have not met with him, but he appears to be
25 quite well-qualified. I think most of -- maybe all of us

1 -- would be ready to support him.

2 But the rush to judgment before -- if there is an
3 investigation underway that is going to be concluded next
4 month or next year, that is one thing. It is this week.
5 It is this week, and I really just urge us to take the
6 time, get that done, and have a chance to vote.

7 My guess is, if all it is is the way I describe it,
8 if it is innocent, then my guess is he is going to be
9 confirmed and out of here and reported out of here
10 favorably.

11 Senator Wyden. Would my colleague yield?

12 Senator Carper. Sure.

13 Senator Wyden. I think my colleague has made an
14 important point. He has noted that there is an
15 investigation going on. It is an investigation
16 instituted by both a Democrat and a Republican. It seems
17 to me that we have not gotten adequate answers as of
18 today.

19 I think that my colleague from Delaware has made a
20 reasonable request that we hold off until we see what
21 this inquiry finds and then take it up at that time.

22 Senator Carper. Thank you for your comments.

23 Mr. Hatch, I think you know me. I try to be a fair
24 person, and I am trying to be fair here as well.

25 The Chairman. Well, you are. You always have

1 been, and I appreciate that.

2 Does anybody else have any comments about this?

3 Senator Cornyn. Mr. Chairman?

4 The Chairman. Yes?

5 Senator Cornyn. The other option would be to vote
6 the nominee out of the committee. Obviously, it will be
7 a delay between the committee vote and floor action where
8 there will be plenty of an opportunity to further explore
9 this matter. Just a suggestion.

10 The Chairman. Well, I would prefer to do that
11 because of the heavy schedule that we have in this
12 committee.

13 Senator Wyden. Mr. Chairman?

14 Senator Nelson. So if you do that, Mr. Chairman,
15 it is going to be partisan -- it may not be partisan if
16 you defer to the ideas of the Senator from Delaware.

17 The Chairman. Well, I think the committee has
18 thoroughly reviewed the nomination of Mr. Gerrish. He
19 has been straightforward with the committee about the
20 fact that he voted in Virginia in November of 2016,
21 several months after becoming a Maryland resident.

22 I believe committee members do have enough
23 information to judge Mr. Gerrish on the totality of his
24 experience, knowledge, and qualifications to serve as
25 Deputy USTR. For me, there is no question that Mr.

1 Gerrish is extremely well-qualified for this position,
2 and I support favorably reporting his nomination.

3 Senator Wyden. Mr. Chairman?

4 The Chairman. Yes, Senator Wyden?

5 Senator Wyden. Mr. Chairman, again, I think what
6 our colleague from Delaware is saying is extremely
7 reasonable, and I was here for the hearing.

8 Number one, this investigation is ongoing as of
9 right now, and it was made as part of a bipartisan
10 request. Number two, the nominee did not choose to
11 address this in his opening statement. If he had come in
12 here and said, hey, I just really blew this, it was a
13 terrible mistake for the following reasons, I think it
14 would have been a different hearing.

15 Then I gave him the opportunity to pretty much say
16 the same thing and to indicate it was a really serious
17 matter, and as my colleague from Delaware said, he just
18 blew it. That is why I am not willing to go forward
19 today on the basis of the fact that there is an
20 investigation into this that is ongoing.

21 The Chairman. Well, a recorded vote has been
22 requested. So I think we will move ahead with the vote
23 here, and we have plenty of time between now and the
24 floor to explore this further. I am certainly going to
25 be interested in whatever the ranking member finds.

1 Senator Wyden. Fine.

2 The Chairman. So the clerk will call the roll.

3 The Clerk. Mr. Grassley?

4 Senator Grassley. Aye.

5 The Clerk. Mr. Crapo?

6 The Chairman. Aye by proxy.

7 The Clerk. Mr. Roberts?

8 The Chairman. Aye by proxy.

9 The Clerk. Mr. Enzi?

10 Senator Enzi. Aye.

11 The Clerk. Mr. Cornyn?

12 Senator Cornyn. Aye.

13 The Clerk. Mr. Thune?

14 Senator Thune. Aye.

15 The Clerk. Mr. Burr?

16 The Chairman. Aye by proxy.

17 The Clerk. Mr. Isakson?

18 Senator Isakson. Aye.

19 The Clerk. Mr. Portman?

20 Senator Portman. Aye.

21 The Clerk. Mr. Toomey?

22 Senator Toomey. Aye.

23 The Clerk. Mr. Heller?

24 Senator Heller. Aye.

25 The Clerk. Mr. Scott?

1 Senator Scott. Aye.
2 The Clerk. Mr. Cassidy?
3 The Chairman. Aye by proxy.
4 The Clerk. Mr. Wyden?
5 Senator Wyden. No.
6 The Clerk. Ms. Stabenow?
7 Senator Stabenow. No.
8 The Clerk. Ms. Cantwell?
9 Senator Cantwell. No.
10 The Clerk. Mr. Nelson?
11 Senator Nelson. No.
12 The Clerk. Mr. Menendez?
13 Senator Wyden. No by proxy.
14 The Clerk. Mr. Carper?
15 Senator Carper. No.
16 The Clerk. Mr. Cardin?
17 Senator Wyden. No by proxy.
18 The Clerk. Mr. Brown?
19 Senator Brown. Aye.
20 The Clerk. Mr. Bennet?
21 Senator Bennet. No.
22 The Clerk. Mr. Casey?
23 Senator Casey. No.
24 The Clerk. Mr. Warner?
25 Senator Wyden. No by proxy.

1 The Clerk. Mrs. McCaskill?

2 Senator Wyden. No by proxy.

3 The Clerk. Mr. Chairman?

4 The Chairman. Aye.

5 The clerk will announce the vote.

6 The Clerk. Mr. Chairman, the tally of the members
7 present is 11 ayes, 7 nays. The final tally, including
8 proxies, is 15 ayes and 11 nays.

9 The Chairman. The "ayes" have it. The nomination
10 is ordered favorably reported. We will continue to
11 examine this on the floor.

12 So I appreciate everybody's patience and cooperation
13 moving through these votes. We will go back to the
14 hearing that we have scheduled here.

15 [Whereupon, at 10:25 a.m., the meeting was
16 adjourned.]

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STATEMENT OF:

THE HONORABLE ORRIN G. HATCH
A United States Senator
from the State of Utah

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