

**NOMINATIONS OF MARK A. WEINBERGER
AND JOHN DUNCAN**

HEARING

BEFORE THE

**COMMITTEE ON FINANCE
UNITED STATES SENATE**

ONE HUNDRED SEVENTH CONGRESS

FIRST SESSION

ON THE

NOMINATIONS OF

MARK A. WEINBERGER TO BE ASSISTANT SECRETARY OF THE TREASURY FOR TAX POLICY, AND JOHN DUNCAN TO BE ASSISTANT SECRETARY OF THE TREASURY FOR LEGISLATIVE AFFAIRS

FEBRUARY 28, 2001



Printed for the use of the Committee on Finance

U.S. GOVERNMENT PRINTING OFFICE

COMMITTEE ON FINANCE

CHARLES E. GRASSLEY, Iowa, *Chairman*

ORRIN G. HATCH, Utah	MAX BAUCUS, Montana
FRANK H. MURKOWSKI, Alaska	JOHN D. ROCKEFELLER IV, West Virginia
DON NICKLES, Oklahoma	TOM DASCHLE, South Dakota
PHIL GRAMM, Texas	JOHN BREAUX, Louisiana
TRENT LOTT, Mississippi	KENT CONRAD, North Dakota
JAMES M. JEFFORDS, Vermont	BOB GRAHAM, Florida
FRED THOMPSON, Tennessee	JEFF BINGAMAN, New Mexico
OLYMPIA J. SNOWE, Maine	JOHN F. KERRY, Massachusetts
JON KYL, Arizona	ROBERT G. TORRICELLI, New Jersey
	BLANCHE L. LINCOLN, Arkansas

KOLAN DAVIS, *Staff Director and Chief Counsel*
JOHN ANGELL, *Democratic Staff Director*

CONTENTS

OPENING STATEMENTS

	Page
Grassley, Hon. Charles E., a U.S. Senator from Iowa, chairman, Committee on Finance	1
Baucus, Hon. Max, a U.S. Senator from Montana	2

ADMINISTRATION NOMINEES

Weinberger, Mark A., nominated to be Assistant Secretary of the Treasury for Tax Policy	2
Duncan, John, nominated to be Assistant Secretary of the Treasury for Legislative Affairs	3

ALPHABETICAL LISTING AND APPENDIX MATERIAL

Baucus, Hon. Max:	
Opening statement	2
Duncan, John:	
Testimony	3
Prepared statement	9
Biographical	10
Grassley, Hon. Charles E.:	
Opening statement	1
Murkowski, Hon. Frank:	
Prepared statement	25
Weinberger Mark A.:	
Testimony	2
Prepared statement	17
Biographical	18

**NOMINATIONS OF MARK A. WEINBERGER TO
BE ASSISTANT SECRETARY OF THE TREASURY
FOR TAX POLICY, AND JOHN DUNCAN
TO BE ASSISTANT SECRETARY OF THE
TREASURY FOR LEGISLATIVE AFFAIRS**

WEDNESDAY, FEBRUARY 28, 2001

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC.

The hearing was convened, pursuant to notice, at 4:20 p.m., in room 215, Dirksen Senate Office Building, Hon. Charles E. Grassley (chairman of the committee) presiding.

Also present: Senator Baucus.

**OPENING STATEMENT OF HON. CHARLES E. GRASSLEY, A U.S.
SENATOR FROM IOWA, CHAIRMAN, COMMITTEE ON FINANCE**

The CHAIRMAN. Now would Mr. Weinberger and Mr. Duncan please come to the table? The committee is going to consider the nomination of Mark Weinberger to be Assistant Secretary of Treasury for Tax Policy, and Mr. John Duncan to be Deputy Under Secretary of the Treasury.

As everyone knows, in executive session earlier today the Finance Committee approved Mr. Weinberger's and Mr. Duncan's nomination. However, considering what you have to go through to be in the Treasury Department, you may want to reconsider if you want to go forward with your nomination.

The administration, of course, is very fortunate to have someone of Mr. Weinberger's knowledge and experience serving as Assistant Secretary for Tax Policy. He was counsel for Senator Danforth during his time on the committee.

In addition, he was Chief of Staff of the President's Bipartisan Committee on Entitlements and Tax Reform. That used to go by the Kerrey Commission, after Senator Kerrey of Nebraska. Again, a good background you have, Mr. Weinberger, for coming to work where you are now, as you will be serving before us, to a considerable extent, in your work.

I would like to turn to another nominee who I got acquainted with a lot better than I did you, Mr. Weinberger, in the time that John Duncan served with an old friend of this committee and the U.S. Senate, because Mr. Duncan was for 16 years an administrative assistant to former Chairman Senator Roth, where he was very, very closely involved with the work of this Senate Finance Committee.

Prior to that, it is my understanding that Mr. Duncan was involved in government oversight in both the House and Senate for a number of years. So he is a very well-known figure on the Hill, and greatly respected by both Senators and staff, and I might say, on both sides of the aisle.

President Bush and Secretary O'Neill should be commended for having two such outstanding and sterling candidates joining the Department of Treasury.

Before I turn to my colleague Senator Baucus, let me thank Senator Baucus and his staff of the Finance Committee for being so gracious in working with us and with the administration to report both nominations on such short notice.

Senator Baucus?

**OPENING STATEMENT OF HON. MAX BAUCUS, A U.S. SENATOR
FROM MONTANA**

Senator BAUCUS. Thank you very much, Mr. Chairman.

We have two great people here. We have worked with them in different capacities over the years and they are both, Mr. Duncan and Mr. Weinberger, a real credit to America. I know they are going to serve us very well.

Both of you gentlemen, we want to work with you. I know we will. Thanks for your service.

The CHAIRMAN. I would like to ask either of you to introduce any family or friends that you have with you. We will start with Mr. Weinberger.

Mr. WEINBERGER. Thank you, Mr. Chairman. I do, so I will just enter in here. I have two-thirds of my family with us. My wife, Nancy, and my daughter Rachel, who is 5, and my son Noah, who is 3, and our 15-month-old twins are home, I assume, to give my wife a break.

The CHAIRMAN. The child tax credit is the one that is going to get top priority. [Laughter.]

Mr. Duncan, do you have anybody you would like to introduce?

Senator BAUCUS. It may be so high as this phases out forward. [Laughter.]

Mr. DUNCAN. Mr. Chairman, my wife was unable to make it this afternoon. I have a son who is under the weather, so she is taking care of him and unable to make it this afternoon.

The CHAIRMAN. Well, we will ask you for your statement at this particular time, before we ask some questions.

**STATEMENT OF MARK A. WEINBERGER, NOMINATED TO BE
ASSISTANT SECRETARY OF THE TREASURY FOR TAX POLICY**

Mr. WEINBERGER. Great. I, first of all, would like to ask that my statement be submitted for the record, if I can.

The CHAIRMAN. Yes.

[The prepared statement of Mr. Weinberger in the appendix.]

Mr. WEINBERGER. Thank you, Mr. Chairman and Mr. Baucus.

The CHAIRMAN. And also yours, Mr. Duncan, if you have one.

Mr. WEINBERGER. I am deeply honored to appear before this committee as the President's nominee to serve as the Assistant Secretary of the Treasury for Tax Policy.

I am grateful to President Bush and to Secretary O'Neill for giving me this opportunity to serve my country in this capacity, and to Chairman Grassley and Senator Baucus for expediting the process in getting this hearing done today.

In particular, thanks to the staff, I know, who had to run around and pull all the paperwork together in rather short order. It is greatly appreciated.

It was a short 4 months ago that I appeared before this committee as a nominee of President Clinton to serve as a member of the Social Security Advisory Board. I appreciated then this committee's consideration and support of the full Senate in confirming me for that position.

Once again, now, I find myself before the committee. The committee is on the front line for decision making at one of the most momentous times in history. The Federal Government's projected surpluses over the next decade are unprecedented.

The scope of the issues that will be faced in this regard over the next few years, primarily with respect to programs under jurisdictions of the Committee on Finance, cannot be broader.

Decisions this committee makes will have a profound effect on the quality of life of every man, woman, and child in the country. If confirmed, I look forward to being part of that discussion with you. I am sure that your answers, the ones you arrive at, will serve our country well.

Lastly, and most importantly, I would like to recognize my family that I introduced moments ago. If I could have them at this table with me today, I would. I cannot do justice in words when expressing the love and appreciation for my wonderful wife and children.

My wife Nancy, and four children, Rachel, Noah, Sean and Ben, who are the twin boys who are not here today, truly are my beginning and my end. They cheerfully support all the mounting commitments in life and give me the strength, courage, and refuge needed to face life's challenges and opportunities.

It is a great privilege to be here today, and I look forward to answering any questions you might have.

The CHAIRMAN. Thank you.

Now, Mr. Duncan, for your statement, please.

STATEMENT OF JOHN DUNCAN, NOMINATED TO BE ASSISTANT SECRETARY OF THE TREASURY FOR LEGISLATIVE AFFAIRS

Mr. DUNCAN. Mr. Chairman, Senator Baucus, I also am very honored to be before this committee as the President's nominee to serve as Assistant Secretary of the Treasury for Legislative Affairs. I am very grateful to President Bush and to Secretary O'Neill for this opportunity.

I also want to thank your staff, and you, for the extra effort that was made to have our hearing today. The amount of work that has gone on behind the scenes to get all the papers where they need to be has been extraordinary, and we appreciate it a great deal.

In my years with former Chairman Roth, I have come to understand the dynamics of this committee, its tradition of searching for consensus and acting with a thoughtfulness and collegiality. I ap-

preciate this opportunity to continue to make contributions to the committee's work.

I want to take this time to acknowledge the profound debt that I owe to Senator Roth. He has taught me a great deal over the last 16 years. He is a good friend and he is the best boss that any administrative assistant could ever have.

As you know, the Department of Treasury has a very broad portfolio, although tax cuts are on the front pages and the department handles issues as diverse as the economic crisis in Turkey to policies affecting financial institutions and law enforcement.

One of the fundamental purposes of the Assistant Secretary for Legislative Affairs is to ensure that the view of Congress are known and fully considered by the department and the administration, while at the same time providing Treasury's views to Congress in a timely manner.

I pledge that I will always be available to field any questions or concerns that members of this committee may have, and to ensure that the responsible officials at the Treasury provide you with timely response.

It is a great privilege to be here today, and I look forward to answering any questions you might have.

[The prepared statement of Mr. Duncan appears in the appendix.]

The CHAIRMAN. Now I would have three standard questions that we ask everybody who's appointed. This would be to both of you, but I would ask you to respond separately.

Is there anything you are aware of in your background that might present a conflict of interest with the duties of the office to which you have been nominated? Mr. Weinberger?

Mr. WEINBERGER. No.

The CHAIRMAN. Mr. Duncan?

Mr. DUNCAN. No.

The CHAIRMAN. Second, do you know of any reason, personal or otherwise, that would in any way prevent you from fully and honorably discharging the responsibilities of the office to which you have been nominated? Mr. Weinberger?

Mr. WEINBERGER. No.

The CHAIRMAN. Mr. Duncan?

Mr. DUNCAN. No.

The CHAIRMAN. Third, do you agree, without reservation, to respond to any reasonable summons to appear and testify before any duly-constituted committee of Congress, if you are confirmed? Mr. Weinberger?

Mr. WEINBERGER. Yes.

The CHAIRMAN. Mr. Duncan?

Mr. DUNCAN. Yes.

The CHAIRMAN. All right.

I had some questions I was going to ask you. I do not think they are that important that we ask now, and I do not even think that I would ask you to respond in writing.

If Senator Baucus has any questions, I will defer to him. If you need some time, go ahead.

Senator BAUCUS. No. That is fine. Thank you very much, Mr. Chairman.

Just a couple of questions for you, Mr. Weinberger. I was a bit taken aback when last week, when I was walking through an airport, there in the newspaper rack was a Forbes magazine article.

The cover story was how to cheat on your taxes, or said, "Are you a Chump?" or something like that, because you are paying more taxes than you have to. It really got to the question of evasion, shelters, havens, and so forth.

Based on the conclusion of the Forbes article, it was several pages, I read it, there are a lot of shelters which many are taking advantage of. We are losing, according to that article, about \$200 billion a year in unreported and uncollected revenue. That is almost the President's tax cut.

What are we going to do about that? As I recall, there are ones like Section 503(c)(15), which is an insurance shelter, which this article claimed is being abused by some insurance companies. That is, paying low premiums, able to get total deferment, even long-term capital gains, until it is repatriated.

I am concerned, and I think a lot of Americans are concerned about shelter abuses. What are we going to do about that?

Mr. WEINBERGER. Well, Senator Baucus, the previous administration had actually taken a leadership role in starting the dialogue on tax shelter issues. The staffs of this committee have played an active role in also trying to deal with that.

The article you refer to is based on individual tax shelters. We have other alleged tax shelters in the corporate area. I think the best thing we can do is to continue to try and sift out what is abuses of the law, illegalities. That article contained many situations of outright fraud.

We have to be prepared and have a strong IRS that can enforce the laws and go after those taxpayers so that all taxpayers feel like we have a fair system and everyone pays their fair share. That is, of course, the underpinning of a voluntary system. If we lose the benefit of people feeling like they are treated fairly, we are in serious trouble.

So I think that the Treasury Department, as we identify these situations, we have issued a series of notices to go after them when we do identify them. We have put forward a number of regulations that the previous administration has that we will be reviewing, proposed regulations dealing with a variety of additional disclosure and circular 230, governing the rules of how lawyers and accountants deal with these situations. We want to work with this committee and this committee staff to help to continue to identify these situations and deal with them in a proactive way.

Senator BAUCUS. Well, I urge you to be aggressive. That article also pointed out, and it is sort of common, there are just fewer audits now. People think they can get away with more.

The more that trend continues, the more we are going to go down in this vicious circle. It is just going to get worse, and worse, and worse. I strongly urge you, the Treasury, this administration, to get pretty aggressive in clamping down on some of these shelters.

I might just say, coincidentally, I was speaking to a business group over the weekend and made this very point. These are high-powered business people. When I finished, one of them walked up to me and said, Senator, you are right. He is involved in an insur-

ance company. He said, you are on to something. I know some companies do abuse that provision of the Code.

He seemed like a real reasonable guy. I do not want to make policy on anecdotal conversations, but I think there is more than a kernel of truth in that article. I would just urge the administration to be a lot more aggressive than we have been thus far if somebody is not paying their taxes. If they are abusing the system, he or she ought to pay, individual or corporate.

The other question, is tax havens. There is some concern about the U.S. being somewhat concerned about havens, thinking that, well, we are intruding upon a Nation's sovereignty. The Nation ought to be able to set up its own tax system.

But a lot of this is really transparency. The country can have its own system, but what is it? The first question is, is it fair? Does it discriminate or not discriminate against Americans? There are a lot of American companies that do think that a lot of countries are discriminating now against American corporations.

The second question, is transparency. Do we fully know what is going on in some of these countries? It is my opinion, frankly, that we are kind of slipping, as Americans. The U.S. Government's protecting American taxpayers is slipping. I am talking about the last administration; it is the only one I know about, not yours.

So, I think you can perform a real credit and kind of make some people stand up and take notice, and a couple of eyebrows be raised, if you in the Treasury and this administration could be fair, but firm, about correcting some of these abuses. It is a very competitive world and it is going to get more competitive with each passing day.

I am not being nationalist about this, I am just being fair about it. We do not want to discriminate against others, we just do not want them to discriminate against us. So that addresses discrimination, but also the transparency issue is one that I encourage you to address.

Mr. DUNCAN. Senator, you are absolutely right in striking the balance that has to be identified between sovereignty and the ability for countries who have worldwide taxation to be able to collect taxation from their taxpayers that are outside their borders.

There is a project the OECD has under way, looking at harmful tax competition. The United States, under the previous administration, has been a leader in that effort.

The current administration is reviewing that project, seeing how we can certainly continue to do exactly what you are talking about, cut down on illegalities by trying to encourage transparency, getting rid of secrecy, and the ability to subvert the law, while at the same time ensuring that individual countries are able to set their own tax policies.

Senator BAUCUS. I appreciate that. But there have been many, and at least one Wall Street Journal article, that quoted Secretary O'Neill suggesting that the United States might back off a bit on that project. I think it would be wise to reexamine that statement.

Mr. DUNCAN. Yes, Senator. The actual Wall Street Journal article was going to the point that you were making before, where the Secretary has made clear that he is continuing to go after the

transparency and trying to prevent countries that have secrecy that allows taxpayers to hide their money.

But at the same time, what he was saying, he just wanted to ensure, since obviously he has only been in the office a month, the objective of the entire study is basically that, to target those two situations and not to try and infringe on country sovereignty. The OECD has repeatedly said that is not their intention, and we hope it is not.

Senator BAUCUS. All right. Thank you.

The CHAIRMAN. I said I did not have a question, but I have got a concern I would like to express to you. This would really be for both of you, because it is a matter of Congress getting information.

We are particularly concerned about costs and complication of the implementation of the Tax Code, particularly as we do changes from time to time, how the changes in the Tax Code will make the IRS work easier or more difficult, and the impact of Tax Code changes on the taxpayers, whether it will increase or decrease simplification for the taxpayers that struggle very hard to fill out, if they do fill out their own forms, or it is very costly if they have somebody else do it.

We have heard concerns that the IRS has not been free to give its opinion on the impact of tax legislation on the work of the Congress.

I was wondering if you would assure us that you do what you can to make sure the IRS is not muzzled by the Treasury responding to Congressional requests on these matters.

Mr. WEINBERGER. I certainly assure you, we will do everything we can to preserve the independence of the IRS on those issues. You know the Commissioner well; he is not someone who is muzzled. We have a great working relationship with the Commissioner, and look forward to fostering that communication as opposed to really doing anything that would muffle it.

The CHAIRMAN. All right.

The same for you, Mr. Duncan?

Mr. DUNCAN. Yes. Absolutely the same.

The CHAIRMAN. Thank you all very much.

Senator BAUCUS. Mr. Chairman, if I might, just very briefly.

The CHAIRMAN. Yes. Please.

Senator BAUCUS. Back to the frequency of audits. What is the proper rate? What is the proper level? Is there a resource problem at the IRS? Some suggest there is, and that is why the audit rate has fallen off so much. So it really begs the question of what the rate should be. Your thoughts?

Mr. DUNCAN. Well, I am not sure what the proper rate should be. Obviously the proper rate needs to be enough so that we have a system where taxpayers feel that they need to comply. It is a voluntary system, but obviously if we had no audits, it may not be so voluntary.

I think that resources are always an issue for the IRS. This budget actually does fund a program that is aimed at a program that was actually put in place last year, which would put 4,000 more people at the IRS who would be able to be in a position to do audits.

One of the things that we have seen, Senator, is a shift in focus to some degree, from the personnel in the audits to responding to taxpayers via questions and things like that, because of a limitation of resources.

But the President, in his budget, has actually funded a program that would provide money for additional auditors to be out there and conducting those audits.

Senator BAUCUS. I appreciate that answer. The article had \$200 billion in uncollected, unreported. That just caught my attention a little bit.

Thank you, Mr. Chairman.

The CHAIRMAN. Yes. Thank you very much. Good luck in your work. Do not forget your families; they are important.

[Whereupon, at 4:40 p.m., the hearing was concluded.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

PREPARED STATEMENT OF JOHN DUNCAN

Mr. Chairman, Senator Baucus, Members of the Committee:

I am deeply honored to appear before this Committee as the President's nominee to serve as Assistant Secretary of the Treasury for Legislative Affairs. I am grateful to President Bush and Secretary O'Neill for this opportunity to serve.

I want to thank you and your able staffs for the extra effort that allowed this hearing today for Mr. Weinberger and myself to be scheduled.

I have here with me today my wife Marcia and my son John.

In my years with former Chairman Roth, I have come to understand the dynamics of this Committee, its tradition of searching for consensus and acting with thoughtfulness and collegiality. I appreciate this opportunity to continue making a contribution to this Committee's work.

I want to acknowledge also the profound debt I owe to Senator Roth. He has taught me a great deal. He is a good friend and the best boss any AA could have.

As you know, the Department of the Treasury has a very broad portfolio. Although tax cuts are on the front pages, the Department handles issues as diverse as the economic crisis in Turkey to policy affecting financial institutions and law enforcement.

One of the fundamental purposes of the Assistant Secretary for Legislative Affairs is to ensure that the views of Congress are known and fully considered by the Department and the Administration, while at the same time providing Treasury's views to the Congress in a timely fashion.

I pledge that I will always be available to field any question or concern Members of this Committee may have, and to ensure that the responsible officials at Treasury provide you with a timely responses.

It is a great privilege to be here today and I look forward to answering your questions.

**SENATE FINANCE COMMITTEE
STATEMENT OF INFORMATION REQUESTED OF NOMINEE**

A. BIOGRAPHICAL INFORMATION

1. Name: (Include any former names used.)
John Mitchell Duncan
2. Position to which nominated:
**Assistant Secretary for Legislative Affairs and Public Liaison
Department of Treasury.**
3. Date of nomination:
4. Address: (List current residence, office, and mailing addresses.)
**Residence: 1207 Independence Avenue SE
Washington, DC 20003-1445**
**Office: Department of the Treasury
1500 Pennsylvania Avenue NW Room 3025
Washington, DC 20220**
5. Date and place of birth: **09/26/45; Oak Park, Illinois**
6. Marital status: (include maiden name of wife or husband's name.)
married (Marcia Ann Thielker)
7. Names and ages of children: **John Chandler Duncan, age 25**

8. Education: (List secondary and higher education institutions, dates attended, degree received, and date degree granted.)

New School University 9/73 to 5/75
Masters Degree awarded in 5/75

University of Illinois 9/63 to 6/68
Bachelor of Science awarded in 6/68

9. Employment record: (List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment.)

Consultant
Department of Treasury
Washington, DC
1/29/01 to the present

Unemployed
1/3/01 to 1/28/01

Administrative Assistant
Senator William V. Roth, Jr.
Washington, DC
11/85 to 1/2/01

Staff Director
Senate Governmental Affairs Committee (Senator Roth, Chairman)
Washington, DC
7/84 to 10/85

Minority Staff Director
House Committee on Government Operations (Congressman Frank Horton, RMM)
Washington, DC
12/78 to 6/84

Professional Staff
Subcommittee on Intergovernmental Relations and Human Resources
House committee on Government Operations (Congressman John Wydler,
RMM)
Washington, DC
7/75 to 11/78

(Graduate school: 9/73 to 5/75)

Analyst
Economic and Marketing Research Department
CNA Financial Corporation
Chicago, IL
4/72 to 8/73

Trainee (basic and advanced)
US Army
Fort Lewis (Washington) and Fort Sill (Oklahoma)
10/71 to 3/72

Manager
New Business Processing Department
Independent Plans Division, Continental Casualty Company
Chicago, IL
1/71 to 9/71

Volunteer
American Peace Corps
Madhya Pradesh, India
7/68 to 12/70

10. Government experience: (List any advisory, consultative, honorary, or other part-time service or positions with Federal, State or local governments, other than those listed above.)

None

11. Business relationships: (List all positions held [for the past 10 years] as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, other business enterprise, or educational or other institution.)

None

12. Memberships: (List all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable, and other organizations.)

**Board Member 1995 to 2000
Kennedy Institute (Non-profit, serving the mentally disabled)
Washington, DC**

**Member (1995 to 2/13/2001)
Industrial Advisory Board
Kennedy Institute
Washington, DC**

RAMs (Republicans Associated for Mutual Support, a social organization)

Christ Church

13. Political affiliations and activities:

- a. List all public offices for which you have been a candidate.

None

- b. List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.

None

- c. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$50 or more for the past 10 years.

**1998 \$50 Carol Schwartz, DC Republican Mayoral candidate
1991 \$100 Bush Quayle**

14. Honors and Awards: (List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognitions for outstanding service or achievement.)

Scholarship from the New School University

**Recipient of the Jacob M. Kaplan Award
New School University (5/75)**

15. Published writings: (List the titles, publishers, and dates of all books, articles, reports, or other published materials you have written.)

I wrote a book review of Allan Shick's "The Congress and Money" that was published in March 1981 in Resources in Review.

16. Speeches: (List all formal speeches you have delivered during the past five years which are on topics relevant to the position for which you have been nominated. Provide the Committee with two copies of each formal speech.)

None

17. Qualifications: (State what, in your opinion, qualifies you to serve in the position to which you have been nominated.)

I have been a staff member of the US Congress for over 25 years. I have served in both committee and personal offices. I have worked in both the House and the Senate and in the majority and the minority. I have an appreciation for how the Congress works and respect for the institution and the men and women who are elected to it.

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, associations, or organizations if you are confirmed by the Senate? If not, provide details.

I am currently employed as a consultant to the Department of the Treasury. If confirmed, I will continue to be an employee of the Department of the Treasury.

2. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, provide details.

No

3. Has any person or entity made a commitment or agreement to employ your services in any capacity after you leave government service? If so, provide details.

No

4. If you are confirmed by the Senate, do you expect to serve out your full term or until the next Presidential election, whichever is applicable? If not, explain.

Yes

C. POTENTIAL CONFLICTS OF INTEREST

1. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

There are none.

2. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

There are none.

3. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy. Activities performed as an employee of the Federal government need not be listed.

There are none.

4. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Provide the Committee with **two** copies of any trust or other agreements.)

I do not foresee any potential conflict of interest. Should any potential conflict issue arise, I will consult promptly with the Treasury Ethics Officials.

5. **Two** copies of written opinions should be provided directly to the Committee by the designated agency ethics officer of the agency to which you have been nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position.
6. The following information is to be provided only by nominees to the positions of United States Trade Representative and Deputy United States Trade Representative: **N/A**

Have you ever represented, advised, or otherwise aided a foreign government or a foreign political organization with respect to any international trade matter? If so, provide the name of the foreign entity, a description of the work performed (including any work you supervised), the time frame of the work (e.g., March to December 1995), and the number of hours spent on the representation.

D. LEGAL AND OTHER MATTERS

1. Have you ever been the subject of a complaint or been investigated, disciplined, or otherwise cited for a breach of ethics for unprofessional conduct before any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

No

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority for a violation of any Federal, State, county or municipal law, regulation, or ordinance, other than a minor traffic offense? If so, provide details. **No**
3. Have you ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details. **No**
4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, provide details.

No

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

I have no additional information relevant to my nomination.

E. TESTIFYING BEFORE CONGRESS

1. If you are confirmed by the Senate, are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be, reasonably requested to do so? **Yes**
2. If you are confirmed by the Senate, are you willing to provide such information as is requested by such committees? **Yes**

PREPARED STATEMENT OF MARK A. WEINBERGER

Mr. Chairman, Senator Baucus, Members of the Senate Finance Committee:

I am deeply honored to appear before this Committee as the President's nominee to serve as Assistant Secretary of the Treasury for Tax Policy. I am grateful to President Bush and Secretary O'Neill for the opportunity to serve my country in this capacity, and to Chairman Grassley and Senator Baucus for expediting this process and holding this hearing.

It was a short four months ago that I appeared before this Committee as a nominee of President Clinton to serve as a member of the Social Security Advisory Board. I appreciated then this Committee's consideration, and the support of the full Senate, in confirming me to serve the government and the American people in that capacity. I am proud of the work of the board and honored to serve with its other distinguished members to analyze the important policy and administrative issues that our Social Security and disability programs face.

I began my government service with a Member of this Committee, Senator John Danforth (R-MO), in 1990. Working with the Members and staff of the Finance Committee taught me some of the fundamentals of good government which are highly relevant today. This Committee's thoughtful consideration of policy, its search for consensus, and its tradition of comity are the benchmarks to which any public official or organization aspires. I am proud to have had the opportunity to serve this Committee.

On the path to this point in my career I have taken many turns. Upon leaving the Finance Committee I was fortunate to have the opportunity to serve as Chief of Staff and Counsel to the President's Bipartisan Commission on Entitlement and Tax Reform, chaired by Senators Bob Kerrey (D-NE) and Jack Danforth. I also served as a Commissioner on the bipartisan National Commission on Retirement Security, with Senator Breaux (D-LA), of this Committee. If confirmed by the Senate I will continue to work in the same bipartisan spirit.

I started a law firm with several friends and colleagues named Washington Counsel, PC. The firm was made up of an outstanding group of individuals who taught me the true value of teamwork. I most recently served as the Director of the National Tax practice for Ernst & Young. I was truly humbled by the incredible talent of the people there.

Once again—now—I find myself before this Committee. This Committee is on the front line for decision-making at one of the most momentous times in our history. The Federal government's projected surpluses over the next decade are unprecedented. The scope of the issues that will be faced in this regard over the next few years, primarily with respect to programs under the jurisdiction of the Committee on Finance, could not be broader.

Decisions this Committee makes will have a profound effect on the quality of life of every man, woman and child in this country. If confirmed, I look forward to being a part of that discussion with you, and I am sure that the answers you arrive at will serve our country well.

Lastly, and most importantly, I would like to recognize my family. If I could have them at this table with me today I would. I can not do justice in words when expressing my love and appreciation for my wonderful wife and children. My wife Nancy, and four children Rachel, Noah, Sean and Ben, truly are my beginning and end. They cheerfully support all my mounting commitments in life and give me the strength, courage and refuge needed to face life's challenges and opportunities.

It is a great privilege to be here today and I look forward to answering your questions.

SENATE FINANCE COMMITTEE
STATEMENT OF INFORMATION REQUESTED OF NOMINEE

Mark A. Weinberger

A. **BIOGRAPHICAL INFORMATION**

1. **Name: (Include any former names used.)**

Mark Alan Weinberger

2. **Position to which nominated:**

Assistant Secretary of the Treasury (Tax Policy)

3. **Date of nomination:**

2/26/01

4. **Address: (List current residence, office, and mailing addresses.)**

Residence: 401 Midsummer Drive
Gaithersburg, Maryland 20878

5. **Date and place of birth:**

July 28, 1961 - Scranton, Pennsylvania

6. **Marital status: (Include maiden name of wife or husband's name.)**

Married.
Spouse (maiden name): Nancy Lynn (Williams) Weinberger

7. **Names and ages of children:**

Rachel Gayle Weinberger	6/28/95
Noah August Weinberger	12/24/97
Sean Michael Weinberger	10/20/99
Benjamin David Weinberger	10/20/99

8. **Education: (List secondary and higher education institutions, dates attended, degree received, and date degree granted.)**

School	Dates	Degrees Attendance	Awarded
Georgetown University Law Center	9/88 to 5/91	Masters in Tax Law	5/91
Case Western Reserve University	8/83 to 5/87	J.D. & MBA	5/87
Emory University	8/79 to 5/83	BA	5/83
Wyoming Seminary High School	9/77 to 6/79	Diploma	6/79
Scranton Central High School	9/76 to 6/77		

9. **Employment record: (List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment.)**

Ernst & Young LLP, Washington, D.C. Director of the National Tax Practice	5/00 – 2/6/01
Washington Counsel, P.C., Washington, D.C. Principal	3/96 – 5/00
Oldaker, Ryan & Leonard, Washington, D.C. Partner	1/95 – 3/96
President's Bipartisan Committee on Entitlement & Tax Reform, Washington, D.C. Chief of Staff	3/94 – 12/94
Senator Danforth, Washington, D.C. Chief Tax and Budget Counsel	6/91 – 3/94
Ernst & Young, National Tax Department, Washington, D.C. Tax Manager	9/87 – 6/91
Ernst & Whinney, Washington, D.C. Intern	2/85 – 9/87

10. **Government experience: (List any advisory, consultative, honorary, or other part-time service or positions with Federal, State or local governments, other than those listed above.)**

Social Security Advisory Board Member	10/00 – Present
Office of Senator Arlen Specter (R-PA) Intern	Summer 1982
Congressional Research Service Policy Analyst (Summer Internship)	Summer 1982

11. **Business relationships: (List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, other business enterprise, or educational or other institution.)**

See Attachment A.

12. **Memberships: (List all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable, and other organizations.)**

Gifts In Kind International	Board of Directors & Secretary
B'nai Israel Congregation	Board of Directors
Center for Strategic and International Studies	Tax Fellow
Federal Bar Association Tax Section	Board of Directors
American Bar Association Tax Section	Committee Member
Omicra Epsilon Delta Honors Society	Member

13. **Political affiliations and activities:**

- a. **List all public offices for which you have been a candidate.**

None.

- b. **List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.**

None.

- c. **Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$50 or more for the past 10 years.**

See Attachment B.

14. **Honors and Awards: (List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognitions for outstanding service or achievement.)**

None.

15. **Published writings: (List the titles, publishers, and dates of all books, articles, reports, or other published materials you have written.)**

Ripon Forum, Before We Spend the Projected Surpluses, Let's Take Another Look; Summer 1998.

Social Security: Facing the Facts; April 10, 1996.

Single Class of Stock Regulations Could Cause Multiple Problems for S Corporations, Journal of S Corporation Taxation, Warren, Gorham and Lamont; Spring 1991, (co-author).

"SERPs" Up: Retirement Benefits for Senior Executives, Journal of Accountancy; November 1990, (co-author).

Grantor Trusts Offer Flexible Planning Opportunities for S shareholders, The Journal of Taxation of S Corporation; Spring 1990, (co-author).

S Corporations, Tax Practice Series, Tax Management Inc.; 1989, (co-author).

Service Holds Two Trusts Ineligible as QSSTs, The Tax Advisor; August 1989.

Compensation and Asset Planning, Planning for the Highly Compensated, Callaghan, (co-author).

Letter Rulings Column, Journal of Taxation (edited submissions).

Tax Clinic Column, The Tax Adviser (edited submissions).

16. **Speeches: (List all formal speeches you have delivered during the past five years which are on topics relevant to the position for which you have been nominated. Provide the Committee with two copies of each formal speech.)**

No formal speeches that were transcribed, but I have spoken at several dozen conferences on tax, budget and retirement issues over the past several years.

17. **Qualifications: (State what, in your opinion, qualifies you to serve in the position to which you have been nominated.)**

I have extensive background and experience in the area of taxation, retirement security and Federal budget policy. I have served in a variety of federal government roles where I had the ability to contribute to the development of policies in these areas. They include serving as Chief Tax and Budget Counsel to Senator John C. Danforth (R-MO) when he served on the Senate Finance Committee and as Chief of Staff and General Counsel to President Clinton's 1994 Bipartisan Commission on Entitlements and Tax Reform. I also have served on the Center for Strategic and International Studies (CSIS) Commission on National Retirement Policy and have been a tax fellow at CSIS. I have been a tax practitioner in the private sector and served as the Director of Ernst & Young's National Tax Practice until February 6, 2001. Ernst & Young is the nations largest tax practice.

In sum, I have a mix of government and private sector experience that covers both policy and substantive tax and budget policy issues. I also believe strongly in the integrity of the tax system and would look forward to assisting the President and Members of Congress in improving upon it.

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. **Will you sever all connections with your present employers, business firms, associations, or organizations if you are confirmed by the Senate? If not, provide details.**

I will resign from my official positions with the Center for Strategic and International Studies; the Federal Bar Association, Tax Section; and the American Bar Association, Tax Section.

2. **Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, provide details.**

No.

3. **Has any person or entity made a commitment or agreement to employ your services in any capacity after you leave government service? If so, provide details.**

No.

4. **If you are confirmed by the Senate, do you expect to serve out your full term or until the next Presidential election, whichever is applicable? If not, explain.**

Yes.

C. POTENTIAL CONFLICTS OF INTEREST

1. **Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.**

I foresee no such conflicts.

2. **Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.**

None.

3. **Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy. Activities performed, as an employee of the Federal government need not be listed.**

From 1995 to May 2000 I was a Principal in a Washington law firm that represented numerous clients on tax, health care and related issues before Congress and the Administration.

4. **Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Provide the Committee with two copies of any trust or other agreements.)**

I do not see any potential conflict of interest. Should any potential conflict of interest arise, I will consult promptly with Treasury Ethics officials.

5. **Two copies of written opinions should be provided directly to the Committee by the designated agency ethics officer of the agency to which you have been nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position.**

6. **The following information is to be provided only by nominees to the positions of United States Trade Representative and Deputy United States Trade Representative:**

Have you ever represented, advised, or otherwise aided a foreign government or a foreign political organization with respect to any international trade matter? If so, provide the name of the foreign entity, a description of the work performed (including any work you supervised), the time frame of the work (e.g., March to December 1995), and the number of hours spent on the representation.

Not applicable.

D. LEGAL AND OTHER MATTERS

1. **Have you ever been the subject of a complaint or been investigated, disciplined, or otherwise cited for a breach of ethics for unprofessional conduct before any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.**

No.

2. **Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority for a violation of any Federal, State, county or municipal law, regulation, or ordinance, other than a minor traffic offense? If so, provide details.**

No.

3. **Have you ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.**

No.

4. **Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, provide details.**

No.

5. **Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.**

No additional information.

E. TESTIFYING BEFORE CONGRESS

1. **If you are confirmed by the Senate, are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so?**

Yes.

2. **If you are confirmed by the Senate, are you willing to provide such information as is requested by such committees?**

Yes.

PREPARED STATEMENT OF HON. FRANK MURKOWSKI

Mr. Chairman, I am very pleased that the President has nominated Mark Weinberger to be the Assistant Secretary for Tax Policy. I believe he is one of the most qualified people anywhere in the country to meet the challenges and tests of this position.

Mark is universally liked and respected by everyone in the tax community. Not only does he know the ins and out of the income tax code, but he also knows exactly how things work on Capitol Hill. He may have gotten his start as an intern in Senator Specter's office in 1992, but Mark really learned the ways of the Finance Committee when he became Chief Tax and Budget Counsel for Senator Jack Danforth.

Everyone who worked with Mark during his 3 years with Senator Danforth, whether on the Democratic or the Republican side of the aisle, held great respect for his intelligence and his diligence. Those traits will also be well appreciated in his new job at the Treasury Department.

You know, Mr. Chairman, very few people understand the financial sacrifice that people make to enter public service. I am sure that Mark is making a great sacrifice in accepting this position. His lovely wife Nancy Lynn and their four young children, will share in that sacrifice, not only financially but in time spent away from home.

I truly commend you, Mark, for taking this opportunity to serve America. I know you will do an outstanding job. And I know that you are very sensitive to the important and unique tax issues that affect Alaska.

I wish you the best in your new position.

