

OPEN EXECUTIVE SESSION
TO FAVORABLY REPORT THE NOMINATIONS OF MARY JOHN MILLER, OF
MARYLAND, TO BE AN UNDER SECRETARY OF THE TREASURY; ALASTAIR
FITZPAYNE, OF MARYLAND, TO BE A DEPUTY UNDER SECRETARY OF THE
TREASURY; KATHLEEN KERRIGAN, OF MASSACHUSETTS, TO BE A JUDGE OF
THE UNITED STATES TAX COURT FOR A TERM OF 15 YEARS; AND HENRY J.
AARON, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE SOCIAL
SECURITY ADVISORY BOARD FOR A TERM EXPIRING SEPTEMBER 30, 2014
DECEMBER 17, 2011

U.S. Senate,
Committee on Finance,
Washington, DC.

The meeting was convened, pursuant to notice, at 9:30 a.m., in S-216 of the Capitol, Hon. Max Baucus (chairman of the committee) presiding.

Present: Senators Baucus, Rockefeller, Conrad, Bingaman, Kerry, Wyden, Schumer, Stabenow, Cantwell, Nelson, Menendez, Carper, Cardin, Hatch, Grassley, Snowe, Kyl, Crapo, Roberts, Enzi, Cornyn, Coburn, Thune, and Burr.

Also present: Gabriel Adler, Senior International Trade and Economic Advisor; Nick Wyatt, Tax and Nomination Professional Staff Member; Joshua LeVasseur, Deputy Chief Clerk; and Danielle Edwards, Deputy Clerk.

The Chairman. The committee will come to order. The committee meets today to consider four nominations. Senator Hatch?

Senator Hatch. Mr. Chairman, I would like to submit a statement for the record.

The Chairman. Without objection. [Statement appears below.] I now entertain a motion that the committee favorably report the nominations.

Senator Hatch. So moved.

The Chairman. The committee will consider the nomination of Mary John Miller, of Maryland, to be an Under Secretary of the Treasury.

A recorded vote has been requested. The clerk will call the roll:

Senator Rockefeller. Aye.

Senator Conrad. Aye.

Senator Bingaman. Aye.

Senator Kerry. Aye.

Senator Wyden. Aye.

Senator Schumer. Aye.

Senator Stabenow. Aye.
Senator Cantwell. Aye.
Senator Nelson. Aye.
Senator Menendez. Aye.
Senator Carper. Aye.
Senator Cardin. Aye.
Senator Hatch. Aye.
Senator Grassley. Aye.
Senator Snowe. Aye.
Senator Kyl. Aye.
Senator Crapo. Aye.
Senator Roberts. Aye.
Senator Enzi. Aye.
Senator Cornyn. Aye.
Senator Coburn. Aye.
Senator Thune. Aye.
Senator Burr. Aye.
The Chairman. Aye.

The Clerk. The tally is 24 ayes, 0 nays.

The Chairman. The ayes have it. The nomination of Ms. Miller is ordered favorably reported.

The committee will now consider the nomination of Alastair M. Fitzpayne, of Maryland, to be a Deputy Under Secretary of the Treasury.

A recorded vote has been requested. The clerk will call the roll:

Senator Rockefeller. Aye.
Senator Conrad. Aye.
Senator Bingaman. Aye.
Senator Kerry. Aye.
Senator Wyden. Aye.
Senator Schumer. Aye.
Senator Stabenow. Aye.
Senator Cantwell. Aye.
Senator Nelson. Aye.
Senator Menendez. Aye.
Senator Carper. Aye.
Senator Cardin. Aye.
Senator Hatch. Aye.
Senator Grassley. Aye.
Senator Snowe. Aye.
Senator Kyl. Aye.
Senator Crapo. Aye.
Senator Roberts. Aye.
Senator Enzi. Aye.
Senator Cornyn. Aye.
Senator Coburn. Aye.

Senator Thune. Aye.

Senator Burr. Aye.

The Chairman. Aye.

The Clerk. The tally is 24 ayes, 0 nays.

The Chairman. The ayes have it. The nomination of Mr. Fitzpayne is ordered favorably reported.

The committee will consider the nomination of Kathleen Kerrigan, of Massachusetts, to be a Judge of the United States Tax Court for a term of 15 years.

A recorded vote has been requested. The clerk will call the roll:

Senator Rockefeller. Aye.

Senator Conrad. Aye.

Senator Bingaman. Aye.

Senator Kerry. Aye.

Senator Wyden. Aye.

Senator Schumer. Aye.

Senator Stabenow. Aye.

Senator Cantwell. Aye.

Senator Nelson. Aye.

Senator Menendez. Aye.

Senator Carper. Aye.

Senator Cardin. Aye.

Senator Hatch. Aye.

Senator Grassley. Aye.

Senator Snowe. Aye.

Senator Kyl. Aye.

Senator Crapo. Aye.

Senator Roberts. Aye.

Senator Enzi. Aye.

Senator Cornyn. Aye.

Senator Coburn. Aye.

Senator Thune. Aye.

Senator Burr. Aye.

The Chairman. Aye.

The Clerk. The tally is 24 ayes, 0 nays.

The Chairman. The ayes have it. The nomination of Ms. Kerrigan is ordered favorably reported.

The committee will now consider the nomination of Henry J. Aaron, of the District of Columbia, to be a Member of the Social Security Advisory Board for a term expiring September 30, 2014.

A recorded vote has been requested. The clerk will call the roll:

Senator Rockefeller. Aye.

Senator Conrad. Aye.

Senator Bingaman. Aye.

Senator Kerry. Aye.

Senator Wyden. Aye.

Senator Schumer. Aye.
Senator Stabenow. Aye.
Senator Cantwell. Aye.
Senator Nelson. Aye.
Senator Menendez. Aye.
Senator Carper. Aye.
Senator Cardin. Aye.
Senator Hatch. Nay.
Senator Grassley. Nay.
Senator Snowe. Aye.
Senator Kyl. Nay.
Senator Crapo. Nay.
Senator Roberts. Aye.
Senator Enzi. Nay.
Senator Cornyn. Aye.
Senator Coburn. Nay.
Senator Thune. Nay.
Senator Burr. Nay.
The Chairman. Aye.
The Clerk. The tally is 16 ayes, 8 nays.
The Chairman. The ayes have it. The nomination of Mr. Aaron is ordered favorably reported, and the committee is adjourned.

[Whereupon, at 10:09 a.m., the meeting was concluded.]

Prepared Statement of the Honorable Orrin Hatch

I thank the Chairman for holding this meeting today and for his continued hard work on this Committee.

We are meeting today to consider four nominees to important government posts. Prior to proceeding with a few brief comments about the nominees and my positions on their nominations, I wish to raise a quick point about today's Treasury nominations and recent comments from the administration concerning those nominations.

Based on remarks during a news conference earlier this month, on December 8, the President seems to have indicated that Republicans are in some way holding up Treasury nominees, for some reason which I could not quite discern. This was used as some sort of example of Congressional behavior that tires Americans.

Let me just say that, were it true, I could certainly understand how the American people would disapprove. We in Congress have a Constitutional responsibility to execute fair oversight of nominations for positions of authority, especially authority to oversee the nation's finances. And we have a responsibility to perform the vetting as efficiently as possible.

The President seems to suggest that those responsibilities have been somehow shirked by Republicans in overseeing the nominees being considered today. Yet, the fact is, I have no idea what the President was talking about. To my knowledge, none of the nominees being considered today, and no outstanding nomination to a Treasury position has been held up or is being held up

in any way by Republicans. These are important positions, and I would urge the President to get the facts straight, rather than turn this into another opportunity for political posturing.

That said, let me move on to discussing the nominees at hand. I have chosen to support the nominations of Mary John Miller to be an Under Secretary of the Treasury; Alastair M. Fitzpayne to be a Deputy Under Secretary of the Treasury; and Kathleen Kerrigan to be a Judge of the United States Tax Court.

I have chosen, also, to vote against the nomination of Dr. Henry Aaron to be a Member of the Social Security Advisory Board, with Chairmanship of the Board as the ultimate destination. Dr. Aaron has chosen to spend most of his time and efforts in the past decade or so on health care issues and advocacy. Indeed, the vast majority of writings that he offered in support of his nomination have to do with health care, not Social Security. Focusing one's energies on health care, rather than analyzing Social Security policy, is not a choice to be faulted. It does, however, give me pause about the extent to which Dr. Aaron has considered Social Security issues and analytical advances in the field over the past decade or more.

Dr. Aaron has written about Social Security more extensively in the past, but having written extensively does not guarantee analytical rigor, or conclusions and prescriptions with which everyone agrees. And I do not always agree with his prescriptions.

Of course, differing opinions about policy prescriptions or analytical techniques and developments need not preclude voting in favor of a Board nominee. I generally believe in reasonable deference to the President for nominations involving positions designed to provide advice to the President and his administration. The Social Security Advisory Board, however, is set up to provide bipartisan advice on Social Security issues to Congress and the Social Security Commissioner, as well as the President. And the ability of the Board Chair to work toward gathering bipartisan consensus is crucial to the Board functioning as an analytical advice body, as opposed to a body where political division and partisan rhetoric are the norm.

Therefore, it is necessary to consider the nomination of Dr. Aaron, whom the President ultimately intends to Chair the Board, from the perspective of bipartisanship. A nominee for Board Chair must demonstrate an ability to promote and garner bipartisan consensus. The evidence does not convince me that Dr. Aaron would, as Board Chair, be able to set aside his partisan ideas — and penchant for higher taxes as the solution to entitlement challenges — and manage the Board in a bipartisan fashion that aims at consensus in analysis and conclusions. Of course, I am simply one Senator among many, and if the President really has found the right man for the Advisory Board job, then he should not have a problem getting enough votes to get his nominee through, overcoming what Dr. Aaron has recently written is a Republican “‘just say no’ approach to governing.”