

There is a different way to lead. In the last 2 years of George W. Bush's term, Democrats came into the majority. Some thought we would slow up his judges. We did not. I served as chairman of the Judiciary Committee during those last 2 years of President George W. Bush's administration and we confirmed 68 district and circuit court judges during that time. In fact, by this time in the seventh year of the Bush administration, the Democratic-controlled Senate had confirmed 21 judges—including 18 district and 3 circuit court judges. Compare that to this seventh year of the Obama administration under Republican control, in which the Senate has thus far confirmed just four district court judges this year. Just four. Now this is outrageous. It hurts. It politicizes the Federal bench. It hurts the rules of law in this country.

So under a Democratic majority with a Republican President, we confirmed five times more judges than the Senate Republican majority has allowed under their control of the Senate for a Democratic President. The disparity of treatment is clear, and it is wrong. Incidentally, that is the same way we did it when Democrats took over control of the Senate during the last 2 years of President Reagan's term. We moved judges at a much faster pace than anything Republicans have allowed us to do under President Obama. This is wrong. This is petty partisanship that hurts our independent judiciary. We are not asking for anything special but we are saying it would be nice if Republicans treated Democrats the same way we treated them.

We should also not forget the rising number of judicial vacancies in our Federal courts. At the start of this Congress, there were 44 vacancies, including 12 vacancies deemed "judicial emergencies" by the nonpartisan Administrative Office of the U.S. Courts. That number has climbed to 63 vacancies, including 27 "judicial emergency" vacancies on our district and circuit courts. The vast majority of these vacancies are concentrated in States with at least one Republican home State Senator. Of particular concern are four circuit court "judicial emergency" vacancies: two in Texas, one in Alabama, and one in Kentucky. Each vacancy has been left open for well over a year, including one in Texas that has remained vacant for almost 3 years.

All Senators know that it is our constitutional duty to provide advice and consent on judicial nominees. When it comes to filling vacancies on the Federal courts in our State, we have unique insight into our States' legal communities to share with the President before he makes a nomination. Americans expect us to do our jobs and in the Senate that includes ensuring their access to the Federal courts. I urge all Senators to work with the President to fill the growing number of judicial vacancies in their States.

We will at least make some small progress today as we finally take up Ms. Farnandez Stoll's nomination. Her extensive experience on issues that come before the Federal Circuit will serve the court well. She is currently a partner at Finnegan, Henderson, Farabow, Garrett and Dunner, a law firm specializing in intellectual property law. Ms. Farnandez Stoll also teaches as an adjunct professor at George Mason University Law School. Before practicing law, Ms. Farnandez Stoll was a patent examiner in the U.S. Patent and Trademark Office. Ms. Farnandez Stoll received her B.S. in electrical engineering from Michigan State University in 1991 and her J.D. from Georgetown University Law School in 1997. Upon graduating from law school, she served as a law clerk to Federal Circuit Judge Alvin Schall. I trust that her background and the reputation she has earned in the legal community will serve her well as she begins this new chapter.

I congratulate Ms. Farnandez Stoll on what I expect will be her successful, albeit long overdue, confirmation. I urge the Senate leadership to act responsibly by scheduling votes for the other 11 uncontroversial judicial nominees still pending on the Executive Calendar.

I yield the floor.

EXECUTIVE SESSION

NOMINATION OF KARA FARNANDEZ STOLL TO BE UNITED STATES CIRCUIT JUDGE FOR THE FEDERAL CIRCUIT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The legislative clerk read the nomination of Kara Farnandez Stoll, of Virginia, to be United States Circuit Judge for the Federal Circuit.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Kara Farnandez Stoll, of Virginia, to be United States Circuit Judge for the Federal Circuit?

Mr. LEAHY. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from Texas (Mr. CRUZ), the Senator from Arizona (Mr. FLAKE), the Senator from Ohio (Mr. PORTMAN), and the Senator from Florida (Mr. RUBIO).

Mr. DURBIN. I announce that the Senator from Maine (Mr. KING) is necessarily absent.

I further announce that, if present and voting, the Senator from Maine (Mr. KING) would vote "yea."

The PRESIDING OFFICER (Mr. GARDNER). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 95, nays 0, as follows:

[Rollcall Vote No. 221 Ex.]

YEAS—95

Alexander	Fischer	Murray
Ayotte	Franken	Nelson
Baldwin	Gardner	Paul
Barrasso	Gillibrand	Perdue
Bennet	Graham	Peters
Blumenthal	Grassley	Reed
Blunt	Hatch	Reid
Booker	Heinrich	Risch
Boozman	Heitkamp	Roberts
Boxer	Heller	Rounds
Brown	Hirono	Sanders
Burr	Hoeven	Sasse
Cantwell	Inhofe	Schatz
Capito	Isakson	Schumer
Cardin	Johnson	Scott
Carper	Kaine	Sessions
Casey	Kirk	Shaheen
Cassidy	Klobuchar	Shelby
Coats	Lankford	Stabenow
Cochran	Leahy	Sullivan
Collins	Lee	Tester
Coons	Manchin	Thune
Corker	Markey	Tillis
Cornyn	McCain	Toomey
Cotton	McCaskill	Udall
Crapo	McConnell	Vitter
Daines	Menendez	Warner
Donnelly	Merkley	Warren
Durbin	Mikulski	Whitehouse
Enzi	Moran	Wicker
Ernst	Murkowski	Wyden
Feinstein	Murphy	

NOT VOTING—5

Cruz	King	Rubio
Flake	Portman	

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is considered made and laid upon the table and the President will be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

The Senator from Nebraska.

MORNING BUSINESS

Mrs. FISCHER. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

LOCAL GOVERNANCE IN EDUCATION

Mrs. FISCHER. Mr. President, this summer parents across the country will be preparing their children for the coming school year. Whether unwinding on a family break, purchasing school supplies, returning summer reading books to the library or finishing summer camp, it will almost be time to go back to school.

We owe so much to our hard-working educators. They are the role models for our children who provide invaluable

life lessons that go well beyond reading, writing, and arithmetic. Years before I served in the Nebraska legislature, I served on my local school board, as president of the Nebraska Association of School Boards, and on the Nebraska School Finance Review Committee. These experiences helped shape my views on education policy as a state lawmaker, and they continue to inform my work here in the Senate.

Nebraska is truly fortunate to have excellent schools. Each school district has unique strengths, and they face challenges that are specific to their schools and to the students. Because of this, parents, teachers, school boards, and communities are in the best position to know the needs of their students. They are an integral part of every child's academic success.

That is why I believe education decisions are best made at the State and especially at the local level. The role of the Federal Government should be to promote policies that will improve the ability of individual States to meet the needs of their specific communities. To that end, I have worked with my colleagues, Senator KING and Senator TESTER, to offer an amendment promoting local governance in education.

The purpose of this bipartisan amendment is simple: to ensure that our local school districts are not coerced into adopting misguided education requirements. It ensures that our local stakeholders have a stronger voice in both the regulatory and the guidance process. This amendment would ensure that communities have ultimate authority over their school districts. It also strengthens the relationship among school board members and parents.

These changes are long overdue. We must limit Federal intrusion into local education policy. As we prepare for the first day of school, Nebraska is focused on providing students with a well-rounded education. We must ensure that our public policy enhances the classroom experience, provides essential resources to student success, and helps place our students on the path for successful futures.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

EVERY CHILD ACHIEVES ACT

Ms. COLLINS. Mr. President, I rise today to support the bipartisan Every Child Achieves Act. This bill is landmark legislation that would reform and reauthorize the Elementary and Secondary Education Act, also known as No Child Left Behind. This bill would improve our schools and strengthen the traditional roles played by our local communities, our educators, and our States.

I am proud to have joined every member of the Senate Health, Education, Labor and Pensions Committee in voting to report this bill and I applaud the chairman, Senator ALEX-

ANDER, and the ranking member, Senator MURRAY, for their leadership.

Congressional action to remedy the serious problems with the law No Child Left Behind, while preserving its valuable parts, is long overdue. NCLB was a well-intentioned law, and its focus on the education of every child, greater transparency in school performance, and more accountability for results were welcome reforms. But some of its provisions were simply not achievable and thus discouraging to teachers, to parents, and to students alike.

The current system of unattainable standards and a patchwork of State waivers has led to confusion about Federal requirements. High-stakes testing and unrealistic 100-percent proficiency goals do not raise aspirations; they instead dispirit those who are committed to a high-quality education for our students. Responding to those concerns in 2004, along with then-Senator Olympia Snowe, I established the Maine NCLB Task Force to examine the issues facing Maine and to provide recommendations for changes to No Child Left Behind.

Our task force brought together individuals with a great deal of expertise, experience, and perspective on the law and on educational policy in general. The task force included teachers, principals, superintendents, school board members, parents, and State officials. It was cochaired by Leo Martin, a former commissioner of the Maine Department of Education, and Anne Pooler, a former professor and then-associate dean at the College of Education at the University of Maine. The task force completed its work in 2005.

Well, our Maine NCLB task force proved to be prescient in identifying the problems with implementing No Child Left Behind, and 10 years later its report is as relevant as ever.

Chief among the task force's final recommendations was the need for greater flexibility for the State department of education and for local school boards. The members pointed out that the principles of improved student performance and closing achievement gaps were completely compatible with according States more flexibility to design different accountability systems.

Reflecting that recommendation, the bill before us, the Every Child Achieves Act, would remove the high-stakes accountability system that has been proven unworkable under No Child Left Behind. Our bill would give States much-needed flexibility over how to improve the accountability of schools for student achievement. Recognizing also the critical importance of family engagement in education, the bill supports school districts in conducting parent outreach and participation activities.

The Every Child Achieves Act would also eliminate the burdensome definition of a "highly qualified teacher" which has proven to be unworkable in Maine's small, rural schools. In such schools, the reality is that teachers

must often teach multiple subjects and are reassigned to different content areas because of low enrollment.

For example, on Maine's North Haven Island, there is one school that serves all students from kindergarten through the 12th grade. With fewer than 70 students, North Haven Community School is one of the smallest K-through-12 schools in my State. It is not surprising that the educators at the North Haven Community School teach multiple subject areas across the different grades because of the school's size.

Speaking of smaller schools, I am particularly pleased that the Every Child Achieves Act would extend the Rural Education Achievement Program, known as REAP, which I coauthored with former Senator Kent Conrad in 2002. Students in rural America should have the same access to Federal grant dollars as those who attend schools in large urban and suburban communities. Most Federal competitive grant programs, however, favor larger school districts because those are the districts that have the ability to hire grant writers to apply for these grants. If you are in a school district such as North Haven, which only has 70 students for all the grades, you don't have the luxury of extra funds to hire grant writers to apply for these competitive grant programs.

What REAP does is provides financial assistance to small and high-poverty rural districts to help them address their unique local needs and also to meet Federal requirements. This program has helped to support new technology in classrooms, distance learning opportunities, professional development for educators, as well as an array of other programs that benefit students and teachers in rural districts. Since the law was enacted, at least 120 Maine school districts have collectively received more than \$42 million from the Rural Education Achievement Program. That is money which has made a real difference to these small, rural, high-poverty districts, and it is Federal funds that they would never have been able to successfully compete for when they were applying against large, urban school districts.

Maine's educators are working hard to develop high-quality assessments that better track student performance and growth. I am pleased that the Every Child Achieves Act includes a pilot program to support States that are designing alternative assessment systems based on student proficiency, not just traditional standardized tests. Such systems often give teachers, parents, and students a fuller understanding of each student's abilities and better prepare them for college or the career path they choose. The Federal Government should cooperate with States and school districts that are designing new assessment systems, and this pilot program is an important step in the right direction.