

Statement of  
**The Honorable Patrick Leahy**

United States Senator  
United States Senate  
November 16, 2011

Today the Judiciary Committee welcomes Kathryn Keneally, President Obama's second nominee to be an Assistant Attorney General in charge of the Tax Division at the Justice Department, and Brian Wimes, President Obama's nominee to fill a vacancy on the Eastern and Western Districts of Missouri. I thank Senator Kohl for chairing the hearing today. I know that Senator McCaskill, who is here to introduce Mr. Wimes, and Senator Blunt, who supports the nomination, are glad we are having this hearing today, as is Senator Schumer, who is here to introduce Ms. Keneally.

We hold this hearing today so that we can continue to fulfill our constitutional duty to ensure that the Federal courts across the country have the judges they need to provide justice for the American people. At a time when nearly one in 10 Federal judgeships remains vacant, the Committee and the Senate must continue to work to address the serious judicial vacancies crisis on Federal courts around the country. We must also ensure that the Justice Department has the people and resources it needs to enforce the law.

I have thanked Senator Grassley numerous times for working with me throughout the year so that the Committee could make progress on nominations, and I have tried to accommodate him when I can. Indeed, at his request, we have not have not pressed forward with hearings including multiple circuit court nominees, something the Republican chairman did during George W. Bush's administration. I have not held hearings on back-to-back weeks, as the Republican chairman did. Instead, we have proceeded only every other week. I am now accommodating Senator Grassley's request to slow down our schedule for the remainder of the year. At his request, I have agreed not to hold another nominations hearing this month after today, although our agreement would call for another hearing on November 30. I am also accommodating him by scheduling only one nominations hearing in December despite the fact that the Senate is likely to be in session for more than three weeks.

As a result of these accommodations, including today's hearing, the Committee has held 18 hearings this year for 78 of President Obama's nominees, 70 of them judicial nominees. Our hearing in December will bring that total to 19 hearings for the year. In contrast, during the third year of the Bush administration, the Republican chairman proceeded to hold 29 nominations hearings for 109 of President Bush's nominees, over 90 of them judicial nominees. That year, the Republican chairman held nine nominations hearings after the August recess and before adjourning in November. We will end the year holding only seven hearings after the August recess, although the Senate will have been in session an extra month this year, and several of those have been with a less than full slate of nominees.

Throughout the year and now I would have preferred if more nominations had been cleared and available to be included in hearings. When nominees were not cleared I urged that additional

efforts be made, but I did not force the issue. No one looking at our schedule could claim we have moved too quickly or that we have not given Republican and Democratic Senators enough time to consider each nominee thoroughly.

The hearing today involves only two nominees, one a judicial nominee and the other the nominee to head the Tax Division. Unfortunately, Senate Republicans opposed and would not vote on the President's initial nominee to serve as the Assistant Attorney General for the Tax Division. Ms. Keneally is an experienced lawyer with a long and distinguished career in private practice handling complex tax issues. I hope that the Committee and the Senate will consider her nomination without delay, so that the Tax Division will finally have a Senate confirmed leader after more than two years.

This hearing schedule Senator Grassley and I have worked out provides the Judiciary Committee and the Senate with the opportunity before we adjourn in December to consider and confirm the nominations we will consider in all of our hearings, including this one. There are 23 judicial nominees stalled before the Senate awaiting consent from the Senate Republican leadership for final consideration. Most were approved by all Republican and Democratic Senators on the Judiciary Committee unanimously. There are four additional judicial nominees who can be reported by the Judiciary Committee by mid-December who participated in our hearings in November. Senate action on those 27 nominees before adjournment would go a long way to helping resolve the longstanding judicial vacancies that are delaying justice for so many Americans in our Federal courts across the country.

I welcome the nominees and their families to the hearing today.

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