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TO: Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])

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The Nation

Michigan Senators Block Five Bush Judicial Nominees

By Jeff Johnson

CNSNews.com Congressional Bureau Chief

March 24, 2003

Capitol Hill (CNSNews.com) - Michigan's two Democratic senators have registered objections to all five of President Bush's judicial nominees from their state, effectively killing their chances for confirmation by returning negative "blue slips." Conservative legal experts said Friday that the action proves the judicial confirmation process must be reformed.

Senators Carl Levin and Debbie Stabenow notified the Senate Judiciary Committee Wednesday of their negative recommendations for 6th Circuit Court of Appeals nominees Richard Griffin, David McKeague, Susan Bieke Neilson and Henry Saad. The pair also objected to the confirmation of Thomas Ludington to the U.S. District Court in Eastern Michigan.

Phil Kent, president of the Southeastern Legal Foundation in Atlanta, worked for former Sen. Strom Thurmond when he was chairman of the Senate Judiciary Committee. Kent has long disapproved of the blue slip process, which allows a nominee's home state senators to effectively veto their confirmation.

"I think we need to do away with it," Kent said. "I think the blue slip thing is archaic, and I also think, in this day and age, when there's ideological litmus testing that it's just another weapon liberals can use or, for that matter, Republicans or conservatives could use."

It will be difficult to bypass the Senate tradition of blue slips, explained John Nowacki, director of legal policy for the Free Congress Foundation, even when the process is being abused as he believes it is in this case.

"This isn't a case where home state senators have some unique insight into why every Michigan nominee should not get a hearing and a vote," he argued. "Instead, it's an attempt to keep a court with six judicial emergencies vacant while Levin and Stabenow play petty political games."

Nowacki noted the contrast between President Bush's handling of the judicial nomination process - including re-nominating several of former President Clinton's nominees - and the treatment afforded Bush's nominees by Democrats in the Senate.

"George W. Bush is the only president to nominate a failed court of appeals nominee of a predecessor from another party," he recalled. "He's shown a willingness to reach out to the other party but - as Levin and Stabenow, once again, have demonstrated - he can't

expect the same consideration from the Democrats."

The blue slip process was originally created, Nowacki explained, in a time when nominees were more likely to be known to senators from their home state than to other senators and when thorough background investigations were not always possible. Kent believes that time no longer exists.

"I think the FBI background check is far better than anybody 'knowing somebody,'" Kent said. "I'm not concerned about anybody slipping through if somebody didn't know [a nominee]."

Kent notes that, in addition to the FBI background probe, investigators from the Senate Judiciary Committee thoroughly examine the qualifications and background of every nominee. He's optimistic that, especially as the 2004 presidential elections approach, a bipartisan agreement can be reached to set new rules for judicial confirmations.

"Nominees should get a hearing, there shouldn't be any blue slips involved, and once a hearing is held, you get an up-or-down vote on the floor of the Senate," Kent said. "And I think Republicans and conservatives have to agree to that if there's a Democrat...a liberal in [office]."

Calls to Sen. Stabenow's office seeking comment on this story were not returned. A spokeswoman for Sen. Levin acknowledged to **CNSNews.com** that the senator had returned negative blue slips on all five nominees but could offer no explanation as to why.