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From: Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
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Subject: : Senator Bayh on President's judges proposal

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HUME: Senator, the president's team came forth in the final days of the campaign with a plan on judicial nominations that would have had retiring judges announce their retirements a year before they did. It would have had a timetable for the consideration of appointments to fill the seats. And it would have provided for a vote on the Senate floor on judicial nominees.

At the time, of course, it was looked as a eleventh-hour proposal, politics. The administration clearly intends to follow up on it and press for it.

What is your view of that proposal? Is that something you'd be interested in seeing passed?

BAYH: I'm willing to give it serious consideration, Brit. I think we need to get away, both parties--you know, this happened when Clinton was president. It's now happening a little bit now. We need to get a more orderly process in place for dealing with these nominations.

The big fight, though, won't be on the district and appellate court nominees. The big fight will be if there's a Supreme Court vacancy and what to do then.

HUME: Right, but do you believe that a president should be entitled at least to a floor vote on judicial nominees?

BAYH: I think in most cases yes. If someone is just clearly beyond the pale, then the committees do have their rights.

HUME: True, but if someone is clearly...

BAYH: In most cases, yes.

HUME: Clearly beyond the pale presumably means, reported out of the Judiciary Committee with a negative recommendation to the floor, where the Senate, presumably, in its wisdom, if the nominee is beyond the pale, would reject it.

BAYH: In most cases, yes. Unless there's something exceptional.