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FOR IMMEDIATE RELEASE: October 23, 2007

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## **Study: On Judges, Red State Dems Lean Far Left Southwick Vote is a Key Test**

WASHINGTON, DC - With an eye to the pivotal role of the Senate's 14 red state Democrats in the imminent vote on Fifth Circuit nominee Judge Leslie Southwick, the Committee for Justice (CFJ) has analyzed the voting patterns of the 14 senators regarding judicial nominations. The analysis, released today, scores each Democratic senator from a red state based on the 26 most important votes on President Bush's judicial nominees. A detailed scorecard is provided below.

"The cloture vote on Iraq War veteran Leslie Southwick is this year's first big test of where senators stand on the judges issue," said CFJ executive director Curt Levey. "While it's no secret that the Senate's most liberal Democrats have made a habit of obstructing the President's finest judicial nominees, the records of red state Democrats on the issue are less well known. We think their constituents deserve to know if their votes on judges in Washington match their conservative rhetoric back home. So we looked at the 26 key votes that best indicate whether a senator is generally supportive of the President's judicial nominees or, instead, tends to side with the liberal Democrats who have used an ideological litmus test to politicize and obstruct the confirmation of judges."

"The results were disappointing," said Levey. "It turns out that 12 of the 14 red state Democrats typically side with the obstructionists in blocking the President's judicial nominees. In fact, six of the 14 have records that are barely distinguishable from the Senate's leading liberals. When it comes to judges, most of the red state Democrats appear to be listening to Ted Kennedy, Hillary Clinton, Chuck Schumer, and left wing special interest groups, rather than the people they represent back home."

"The worst red state offenders are Majority Leader Harry Reid (NV) and Evan Bayh (IN)," explained Levey. "Their records of obstruction make even Chuck Schumer of New York look reasonable. Only slightly better are red state Democrats Max Baucus (MT), John Rockefeller (WV), Tim Johnson (SD), and Byron Dorgan (ND). Another six red state senators – Mary Landrieu (LA), Mark Pryor (AK), Blanche Lincoln (AK), Bill Nelson (FL), Robert Byrd (WV), and Kent Conrad (ND) – are in the obstructionist camp about two-thirds of the time. Which leaves only Ken Salazar (CO) and especially Ben Nelson (NE) as admirable exceptions to red state Democrats' abysmal record on judges."

"The good news is that the upcoming vote on Judge Southwick offers these wayward red state senators a second chance on an issue that's important to many red state voters. It's an opportunity to demonstrate to their constituents that they favor judges who will interpret rather than rewrite the Constitution," noted Mr. Levey. "Many of the people they represent are concerned about the erosion of traditional values in the face of judicial activism. I urge those constituents to pick up the phone this week and remind their senators of the importance of putting constitutionalist judges like Leslie Southwick on the federal courts."

“Five of the wayward senators – Landrieu, Pryor, Johnson, Baucus, and Rockefeller – are facing an election next year,” Levey added. “If I were up for re-election in a red state, I wouldn’t want to go home for the Thanksgiving recess next month and have to explain to my constituents why I teamed up with Ted Kennedy to shoot down an Iraq War veteran.”

*The Committee for Justice is a non-partisan, non-profit organization devoted to promoting constitutionalist judicial nominees and the rule of law.*

###

## How Red are Red State Democrats When it Comes to Judges?

By John Kalinger, Research Director, The Committee for Justice

### Red State Democrats

Below is a list of red state Democrats who have served in the U.S. Senate since at least 2004, with the year they are up for re-election in parentheses. A red state Democrat is defined here as a Democratic senator who represents a state that George W. Bush won twice.

**Arkansas:** Blanche Lincoln (‘10), Mark Pryor (‘08)  
**Colorado:** Ken Salazar (‘10)  
**Florida:** Bill Nelson (‘12)  
**Indiana:** Evan Bayh (‘10)  
**Louisiana:** Mary Landrieu (‘08)  
**Montana:** Max Baucus (‘08)  
**Nebraska:** Ben Nelson (‘12)  
**Nevada:** Harry Reid (‘10)  
**North Dakota:** Kent Conrad (‘12), Byron Dorgan (‘10)  
**South Dakota:** Tim Johnson (‘08)  
**West Virginia:** Robert Byrd (‘12), John Rockefeller (‘08)

### Scorecard

Our scorecard is based on the 26 most important confirmation and cloture votes on the President’s judicial nominees since the beginning of the 108<sup>th</sup> Congresses in 2003 (see below for a list of the votes).<sup>1</sup> The score for each red state Democrat indicates how often he or she voted for confirmation of a nominee or for cloture necessary to hold a confirmation vote. Scores for four senators from solidly blue states are included for comparison purposes. Votes in which a senator did not participate are not

counted. Here are the results, ranked by percentage:

<u>Senator</u>	<u>State</u>	<u>Score</u>
Hillary Clinton	New York	0.0% (0/26)
Ted Kennedy	Massachusetts	0.0% (0/26)
Evan Bayh	Indiana	3.8% (1/26)
Harry Reid	Nevada	3.8% (1/26)
Patrick Leahy	Vermont	3.8% (1/26)
Chuck Schumer	New York	7.7% (2/26)
Max Baucus	Montana	15.4% (4/26)
John Rockefeller	West Virginia	16.7% (4/24)
Byron Dorgan	North Dakota	19.2% (5/26)
Tim Johnson	South Dakota	19.2% (5/26)
Kent Conrad	North Dakota	33.3% (8/24)
Mark Pryor	Arkansas	34.6% (9/26)
Blanche Lincoln	Arkansas	34.6% (9/26)
Bill Nelson	Florida	34.8% (8/23)
Mary Landrieu	Louisiana	38.5% (10/26)
Robert Byrd	West Virginia	38.5% (10/26)
Ken Salazar <sup>2</sup>	Colorado	50.0% (5/10)
Ben Nelson	Nebraska	92.0% (23/25)

<sup>1</sup> Where there were more than two cloture votes on the same nominee, only the first and last votes are used.

<sup>2</sup> Ken Salazar did not serve in the 108<sup>th</sup> Congress and, therefore, has substantially fewer votes than his colleagues.

### Red State Democrats' Votes on Judicial Nominees<sup>3</sup>

#### 1. Miguel A. Estrada, D.C. Cir. – [Cloture Motion](#), 03/13/03:

Baucus	Nay	Bayh	Nay
Byrd	Nay	Conrad	Nay
Dorgan	Nay	Johnson	Nay
Landrieu	Nay	Lincoln	Nay
Nelson (NE)	Yea	Nelson (FL)	Yea
Pryor	Nay	Reid	Nay
Rockefeller	Nay		

#### 2. Priscilla Richman Owen, 5<sup>th</sup> Cir. – [Cloture Motion](#), 5/1/03:

Baucus	Nay	Bayh	Nay
Byrd	Nay	Conrad	Nay
Dorgan	Nay	Johnson	Nay
Landrieu	Nay	Lincoln	Nay
Nelson (NE)	Yea	Nelson (FL)	Nay
Pryor	Nay	Reid	Nay
Rockefeller	Nay		

3. **Miguel A. Estrada, D.C. Cir.** – [Cloture Motion](#), 7/30/03:

Baucus	Nay	Bayh	Nay
Byrd	Nay	Conrad	Nay
Dorgan	Nay	Johnson	Nay
Landrieu	Nay	Lincoln	Nay
Nelson (NE)	Yea	Nelson (FL)	Yea
Pryor	Nay	Reid	Nay
Rockefeller	Nay		

4. **Charles W. Pickering, 5<sup>th</sup> Cir.** – [Cloture Motion](#), 10/30/03:

Baucus	Nay	Bayh	Nay
Byrd	Nay	Conrad	Nay
Dorgan	Nay	Johnson	Nay
Landrieu	Nay	Lincoln	Nay
Nelson (NE)	No Vote	Nelson (FL)	Nay
Pryor	Nay	Reid	Nay
Rockefeller	Nay		

5. **William H. Pryor, 11<sup>th</sup> Cir.** – [Cloture Motion](#), 11/6/03:

Baucus	Nay	Bayh	Nay
Byrd	Nay	Conrad	Nay
Dorgan	Nay	Johnson	Nay
Landrieu	Nay	Lincoln	Nay
Nelson (NE)	Yea	Nelson (FL)	Nay
Pryor	Nay	Reid	Nay
Rockefeller	Nay		

6. **Carolyn B. Kuhl, 9<sup>th</sup> Cir.** – [Cloture Motion](#), 11/14/03:

Baucus	Nay	Bayh	Nay
Byrd	Nay	Conrad	Nay
Dorgan	Nay	Johnson	Nay
Landrieu	Nay	Lincoln	Nay
Nelson (NE)	Yea	Nelson (FL)	No Vote
Pryor	Nay	Reid	Nay
Rockefeller	Nay		

7. **Janice R. Brown, D.C. Cir.** – [Cloture Motion](#), 11/14/03:

Baucus	Nay	Bayh	Nay
Byrd	Nay	Conrad	Nay
Dorgan	Nay	Johnson	Nay
Landrieu	Nay	Lincoln	Nay
Nelson (NE)	Yea	Nelson (FL)	No Vote
Pryor	Nay	Reid	Nay
Rockefeller	Nay		

8. **Priscilla Richman Owen, 5<sup>th</sup> Cir. – [Cloture Motion](#), 11/14/03:**

Baucus	Nay	Bayh	Nay
Byrd	Nay	Conrad	Nay
Dorgan	Nay	Johnson	Nay
Landrieu	Nay	Lincoln	Nay
Nelson (NE)	Yea	Nelson (FL)	No Vote
Pryor	Nay	Reid	Nay
Rockefeller	Nay		

9. **Diane S. Sykes, 7<sup>th</sup> Cir. - [Confirmation](#), 6/24/04:**

Baucus	Nay	Bayh	Yea
Byrd	Yea	Conrad	Yea
Dorgan	Yea	Johnson	Nay
Landrieu	Yea	Lincoln	Yea
Nelson (NE)	Yea	Nelson (FL)	Nay
Pryor	Yea	Reid	Nay
Rockefeller	Yea		

10. **J. Leon Holmes, E.D. Arkansas - [Confirmation](#), 7/6/04:**

Baucus	Nay	Bayh	Nay
Byrd	Nay	Conrad	Nay
Dorgan	Nay	Johnson	Nay
Landrieu	Yea	Lincoln	Yea
Nelson (NE)	Yea	Nelson (FL)	Nay
Pryor	Yea	Reid	Nay
Rockefeller	Nay		

11. **William Gerry Myers III, 9<sup>th</sup> Cir. – [Cloture Motion](#), 7/20/04:**

Baucus	Nay	Bayh	Nay
Byrd	Nay	Conrad	Nay
Dorgan	Nay	Johnson	Nay
Landrieu	Nay	Lincoln	Nay
Nelson (NE)	Yea	Nelson (FL)	Nay
Pryor	Nay	Reid	Nay
Rockefeller	Nay		

12. **Henry W. Saad, 6<sup>th</sup> Cir. – [Cloture Motion](#), 7/22/04:**

Baucus	Nay	Bayh	Nay
Byrd	Nay	Conrad	Nay
Dorgan	Nay	Johnson	Nay
Landrieu	Nay	Lincoln	Nay
Nelson (NE)	Nay	Nelson (FL)	Nay
Pryor	Nay	Reid	Nay
Rockefeller	Nay		

13. **Richard A. Griffin, 6<sup>th</sup> Cir.** – [Cloture Motion](#), 7/22/04:

Baucus	Nay	Bayh	Nay
Byrd	Nay	Conrad	Nay
Dorgan	Nay	Johnson	Nay
Landrieu	Nay	Lincoln	Yea
Nelson (NE)	Yea	Nelson (FL)	Nay
Pryor	Nay	Reid	Nay
Rockefeller	Nay		

14. **David W. McKeague, 6<sup>th</sup> Cir.** – [Cloture Motion](#), 7/22/04:

Baucus	Nay	Bayh	Nay
Byrd	Nay	Conrad	Nay
Dorgan	Nay	Johnson	Nay
Landrieu	Nay	Lincoln	Yea
Nelson (NE)	Yea	Nelson (FL)	Nay
Pryor	Nay	Reid	Nay
Rockefeller	Nay		

15. **Priscilla Richman Owen, 5<sup>th</sup> Cir.** – [Confirmation](#), 5/25/05:

Baucus	Nay	Bayh	Nay
Byrd	Yea	Conrad	Nay
Dorgan	Nay	Johnson	Nay
Landrieu	Yea	Lincoln	Yea
Nelson (NE)	Nay	Nelson (FL)	Nay
Pryor	Nay	Reid	Nay
Rockefeller	Nay	Salazar	Nay

16. **Janice R. Brown, D.C. Cir.** – [Cloture Motion](#), 6/7/05:

Baucus	Nay	Bayh	Nay
Byrd	Yea	Conrad	Yea
Dorgan	Nay	Johnson	Nay
Landrieu	Yea	Lincoln	Nay
Nelson (NE)	Yea	Nelson (FL)	Yea
Pryor	Yea	Reid	Nay
Rockefeller	Nay	Salazar	Yea

17. **Janice R. Brown, D.C. Cir.** – [Confirmation](#), 6/8/05:

Baucus	Nay	Bayh	Nay
Byrd	Nay	Conrad	Nay
Dorgan	Nay	Johnson	Nay
Landrieu	Nay	Lincoln	Nay
Nelson (NE)	Yea	Nelson (FL)	Nay
Pryor	Nay	Reid	Nay
Rockefeller	Nay	Salazar	Nay

18. **William H. Pryor, 11<sup>th</sup> Cir. – [Cloture Motion](#), 6/8/05:**

Baucus	Nay	Bayh	Nay
Byrd	Yea	Conrad	Yea
Dorgan	Nay	Johnson	Yea
Landrieu	Yea	Lincoln	Nay
Nelson (NE)	Yea	Nelson (FL)	Yea
Pryor	Yea	Reid	Nay
Rockefeller	Nay	Salazar	Yea

19. **William H. Pryor, 11<sup>th</sup> Cir. - [Confirmation](#), 6/9/05:**

Baucus	Nay	Bayh	Nay
Byrd	Nay	Conrad	Nay
Dorgan	Nay	Johnson	Nay
Landrieu	Nay	Lincoln	Nay
Nelson (NE)	Yea	Nelson (FL)	Nay
Pryor	Nay	Reid	Nay
Rockefeller	Nay	Salazar	Yea

20. **Thomas B. Griffith, D.C. Cir. - [Confirmation](#), 6/14/05:**

Baucus	Yea	Bayh	Nay
Byrd	Nay	Conrad	Yea
Dorgan	Yea	Johnson	Nay
Landrieu	Nay	Lincoln	Yea
Nelson (NE)	Yea	Nelson (FL)	Yea
Pryor	Yea	Reid	Yea
Rockefeller	Nay	Salazar	Nay

21. **John G. Roberts, U.S. Supreme Court – [Confirmation](#), 9/29/2005:**

Baucus	Yea	Bayh	Nay
Byrd	Yea	Conrad	Yea
Dorgan	Yea	Johnson	Yea
Landrieu	Yea	Lincoln	Yea
Nelson (NE)	Yea	Nelson (FL)	Yea
Pryor	Yea	Reid	Nay
Rockefeller	Yea	Salazar	Yea

22. **Samuel A. Alito, U.S. Supreme Court – [Cloture Motion](#), 1/30/06:**

Baucus	Yea	Bayh	Nay
Byrd	Yea	Conrad	Yea
Dorgan	Yea	Johnson	Yea
Landrieu	Yea	Lincoln	Yea
Nelson (NE)	Yea	Nelson (FL)	Yea
Pryor	Yea	Reid	Nay
Rockefeller	Yea	Salazar	Yea

23. **Samuel A. Alito, U.S. Supreme Court - [Confirmation](#)**, 1/31/06:

Baucus	Nay	Bayh	Nay
Byrd	Yea	Conrad	Yea
Dorgan	Nay	Johnson	Yea
Landrieu	Nay	Lincoln	Nay
Nelson (NE)	Yea	Nelson (FL)	Nay
Pryor	Nay	Reid	Nay
Rockefeller	Nay	Salazar	Nay

24. **Brett M. Kavanaugh, D.C. Cir. - [Cloture Motion](#)**, 5/25/06:

Baucus	Nay	Bayh	Nay
Byrd	Yea	Conrad	No Vote
Dorgan	Nay	Johnson	Nay
Landrieu	Yea	Lincoln	Yea
Nelson (NE)	Yea	Nelson (FL)	Yea
Pryor	Yea	Reid	Nay
Rockefeller	No Vote	Salazar	No Vote

25. **Brett M. Kavanaugh, D.C. Cir. - [Confirmation](#)**, 5/26/06:

Baucus	Nay	Bayh	Nay
Byrd	Yea	Conrad	No Vote
Dorgan	Nay	Johnson	Nay
Landrieu	Yea	Lincoln	Nay
Nelson (NE)	Yea	Nelson (FL)	Nay
Pryor	Nay	Reid	Nay
Rockefeller	No Vote	Salazar	No Vote

26. **Jerome A. Holmes, 10<sup>th</sup> Cir. - [Confirmation](#)**, 7/25/06:

Baucus	Yea	Bayh	Nay
Byrd	Yea	Conrad	Yea
Dorgan	Yea	Johnson	Yea
Landrieu	Yea	Lincoln	Yea
Nelson (NE)	Yea	Nelson (FL)	Nay
Pryor	Yea	Reid	Nay
Rockefeller	Yea	Salazar	Nay

<sup>3</sup> Among the blue state Democrats listed on the scorecard, Patrick Leahy voted for the confirmation of John Roberts to the U.S. Supreme Court, and Chuck Schumer voted for the confirmation of Diane Sykes to the 7th Circuit and Thomas Griffith to the D.C. Circuit.