

Mr. President, we are now able to go to final passage. Before we go to final passage, I wish to begin by thanking Senator CONRAD and his extraordinary staff.

AMENDMENT NO. 3081 WITHDRAWN

Before I do that, I ask unanimous consent to withdraw the pending amendment No. 3081 at the desk.

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

Mr. GREGG. Mr. President, we are now able to go to final passage. Before we go to final passage, I wish to begin by thanking Senator CONRAD and his extraordinary staff, led by Mary Naylor. They have been incredibly cooperative. They are always extraordinarily professional. There is no question but we would not have been able to complete this—in what may not seem timely to most folks because we have been here all day but is—quite honestly we could have been here into tomorrow or Saturday without the extraordinary cooperation of the Senator from North Dakota and his team. I thank him for his professionalism and their team.

I also thank my Committee on the Budget staff. They have worked tirelessly and continuously on this budget for the last 6 weeks. They literally have gotten very little sleep, especially, of course, Scott Gudes, my budget leader, and Denzel McGuire, his top assistant. They did a great job of organizing, especially today, the amendments.

Jeff Turcotte, Dave Myers, and Sam Donoghue of our communications team, who has tried to compete with the chart machine on the other side of the aisle, they have come close. They have done a great job. Jim Hearn and Cheri Reidy, David Pappone and Gail Millar, are the specialists who make this place work. The cornerstone of the great team, John Mashburn, and Vas Chrisopoulos, my AA who keeps everything humming along and does an incredible job on my personal staff, and I thank the leadership staff. There are an awful lot of good people working for the leadership around here. They should be acknowledged for their tremendous work.

Let me thank the clerks and all the Senate staff. They have worked all day with virtually no break, along with the Reporters of Debates. I thank everyone for an extraordinary amount of commitment to making this place work correctly.

This budget is now on the verge of being passed. It is the first step in the process. As I have said before, it is the responsibility of governance to pass a budget. That is our responsibility as Senators. This is a responsible budget. It is not everything I wanted, obviously, but it is a step in the right direction. It is a step on the road, and it is a positive step on the road.

Rather than prolong the discussion, because we have had a lot of discussion on it, I will now yield the floor to the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, first, I want to indicate that we may have one matter to conclude before we end.

AMENDMENT NO. 3023, AS MODIFIED

Mr. President, I send to the desk amendment No. 3023, as modified, and ask unanimous consent that it be agreed to.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment (No. 3023), as modified, was agreed to, as follows:

(Purpose: To strengthen homeland security by adding \$10 million to National Defense for an interoperable and survivable mobile wireless communications network enabling clear, reliable communications among DoD and first responders for the military homeland defense command)

On page 9, line 20, increase the amount by \$10,000,000.

On page 9, line 21, increase the amount by \$10,000,000.

On page 27, line 23, decrease the amount by \$10,000,000.

On page 27, line 24, decrease the amount by \$10,000,000.

Mr. GREGG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will please call the roll.

The legislative clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. CONRAD. Mr. President, we are prepared to go to final passage. We cannot do that without first thanking people. This has been a marathon, and people—many people—have worked around the clock to get us to this position.

Let me thank a colleague because we would not be finishing at 7:15 without the extraordinary work of Senator PATTY MURRAY.

Thank you, PATTY.

She convinced literally dozens of our colleagues to drop amendments tonight; otherwise, we would have been here until 2 o'clock in the morning. So special thanks to her.

And thanks to my staff director, Mary Naylor; and John Righter, my deputy staff director; Lisa Konwinski, my counsel; and, most of all, my chart master, Koby Noel.

And thanks to the staff of Senator GREGG: Scott Gudes and Denzel McGuire, outstanding professionals.

Of course, my personal thanks to the chairman of the committee, who has been so decent to deal with, and so honorable to deal with.

On our side, Mr. Chairman, we thank you for your courtesies.

With that, let me conclude on the budget itself.

Mr. GREGG. No.

Mr. CONRAD. Oh, yes.

Borrow and spend—that is what this budget represents.

Mr. President and colleagues, as shown on this chart, this is what is

going to happen to the debt under this budget. It is up, up, and away. A vote for this budget is a vote for more debt, higher interest rates, a weaker economy, the export of American jobs, the selling off of America, piece by piece.

Colleagues, we could do a whole lot better than this. I urge my colleagues to vote no.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I have been asked to remind Senators that there will be two more votes, after the final vote on the budget, on judges.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on the adoption of the concurrent resolution.

The clerk will please call the roll.

The legislative clerk called the roll.

The result was announced—yeas 51, nays 49, as follows:

[Rollcall Vote No. 74 Leg.]

YEAS—51

Alexander	Domenici	McConnell
Allard	Enzi	Murkowski
Allen	Frist	Roberts
Bennett	Graham	Santorum
Bond	Grassley	Sessions
Brownback	Gregg	Shelby
Bunning	Hagel	Smith
Burns	Hatch	Snowe
Burr	Hutchison	Specter
Chambliss	Inhofe	Stevens
Coburn	Isakson	Sununu
Cochran	Kyl	Talent
Cornyn	Landrieu	Thomas
Craig	Lott	Thune
Crapo	Lugar	Vitter
DeMint	Martinez	Voivovich
Dole	McCain	Warner

NAYS—49

Akaka	Dorgan	Menendez
Baucus	Durbin	Mikulski
Bayh	Ensign	Murray
Biden	Feingold	Nelson (FL)
Bingaman	Feinstein	Nelson (NE)
Boxer	Harkin	Obama
Byrd	Inouye	Pryor
Cantwell	Jeffords	Reed
Carper	Johnson	Reid
Chafee	Kennedy	Rockefeller
Clinton	Kerry	Salazar
Coleman	Kohl	Sarbanes
Collins	Lautenberg	Schumer
Conrad	Leahy	Stabenow
Dayton	Levin	Wyden
DeWine	Lieberman	
Dodd	Lincoln	

The concurrent resolution (S. Con. Res. 83), as amended, was agreed to.

(The resolution will be printed in a future edition of the RECORD.)

Mr. FRIST. Mr. President, I move to reconsider the vote and to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH. Mr. President, I would be remiss if I did not make at least a short statement on the budget we just passed. I agree with those who believe that government is simply out of control. We just passed a budget that promises a budget deficit in the vicinity of \$400 billion, a truly staggering amount of money. Our Federal Government is borrowing in excess of a billion dollars a day to fund the awesome amount of obligations that we have authorized. While I would have preferred

a vastly smaller budget today, I know it is simply not politically feasible to do so at this time. I pledge to work toward creating an environment where we can achieve responsible spending and fiscal sanity while meeting our obligations. The budget we have just passed does represent a step, albeit a small one, toward fiscal responsibility. Getting our entitlement spending under control, reining in earmarks and other wasteful discretionary spending, and maintaining the conditions necessary for strong, stable economic growth are all necessary to achieve a balanced budget, and it will take the concerted efforts of each and every one of us to achieve this in the future.

Mr. FEINGOLD. Mr. President, today, the Senate allowed its budget process to be hijacked by those seeking to move a policy issue that has been rightly rejected so many times. I opposed the manipulation of process in the Budget Committee and I opposed final passage this evening. Using the reconciliation process to advance a single controversial policy—a policy that should be considered through the appropriate legislative channels—is shameful.

We debated drilling in the Arctic last spring. We debated it again last fall, and at that time, a number of House Republicans shot the idea down. Then, in December, we wasted more time on the issue. This year, nine members of the Budget Committee reached out ahead of time to Chairman GREGG and Ranking Member CONRAD asking that the budget process not be used to revisit drilling in the Arctic Refuge, and yet, it was. I ask unanimous consent that a copy of the letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,

Washington, DC, March 6, 2006.

Hon. JUDD GREGG,  
Chairman, Budget Committee,  
Washington, DC.  
Hon. KENT CONRAD,  
Ranking Member, Budget Committee  
Washington, DC.

DEAR CHAIRMAN GREGG AND RANKING MEMBER CONRAD: As members of the Budget Committee, we write to express our opposition to the inclusion of any language or mechanism in the fiscal year 2007 budget resolution that assumes revenues from drilling in the Arctic National Wildlife Refuge or allows for the insertion of any provision that opens the Coastal Plain of the Refuge to oil and gas drilling and exploration. We also strongly oppose the inclusion of any Arctic Refuge reconciliation instructions for the Energy Committee in the budget resolution.

It is irresponsible to base the country's budget on highly speculative and dubious projections of lease revenues for the coastal plain of the Arctic National Wildlife Refuge. The reality is that leasing portions of the Arctic Refuge would likely not bring in the assumed levels of revenue to the federal treasury, and yet, the Congressional Budget Office (CBO) assumes \$6 billion in revenue from leasing of the Arctic Refuge, and the President's fiscal year 2007 budget proposal presupposes \$7 billion in revenue from a 2008

Refuge lease sale. Previous drilling proposals called for leasing between 400,000 and 600,000 acres of the Arctic Refuge. The Administration proposal would therefore require that industry bid at least \$11,667 per leased acre. The facts of oil and gas leasing on Alaska's North Slope and elsewhere in the country show that such a proposal is far out of touch with reality:

Since 1991, 38 leases on the North Slope and in near-shore waters have brought in an average of only \$64.38 per leased acre. The Administration's projection is 181 times this historic average.

Last year, the oil industry bid \$161.55 per acre for areas offshore of the Arctic Refuge—an amount that is nearly an order of magnitude lower than the Administration's projections.

The CBO acknowledged in December 2005 that higher oil prices do not necessarily result in higher lease bids when it wrote that other factors, such as operating and capital costs and the attractiveness of competing projects elsewhere, influence bid amounts.

The North Slope leasing history demonstrates CBO's point. In the last five years, when North Slope crude averaged \$33.60 a barrel, the average price per acre was \$48.15. In the five years prior to that, when North Slope crude averaged \$19.60, the average price per acre was \$93.58. Additionally, preliminary analysis of two lease sales held on March 1, 2006 reveals an average per acre price of less than \$40 on a day when North Slope crude was selling for \$59.11.

This kind of budget charade will simply not help reduce our huge and growing federal deficit.

As we all know, the President acknowledged our addiction to oil during his State of the Union address. As with any addiction, recognition of the problem is the first step toward change. Thus, now more than ever, instead of looking to drill to the past in areas such as the Arctic National Wildlife Refuge, we should truly dedicate ourselves to a cleaner energy future. The American people expect Congress and the Administration to stop wasting their time on dead-end drilling schemes and to instead chart an energy vision reflective of the 21st century.

Again, we encourage you to reject any requests that are intended to misuse the budget process to open the Refuge to oil and gas drilling and exploration and we thank you for your consideration of this matter.

Russ Feingold, Patty Murray, Tim Johnson, Bill Nelson, Robert Menendez, Paul S. Sarbanes, Ron Wyden, Robert C. Byrd, Debbie Stabenow.

Mr. FEINGOLD. Mr. President, I oppose drilling in the Arctic National Wildlife Refuge, but if we are going to debate this policy, we should do so openly—not through a backdoor budget maneuver. My colleagues who want to open the Arctic Refuge to drilling should go through the regular legislative process that the rest of us use to advance policy initiatives. After all, what message do you send when you manipulate a process simply because the normal procedure does not give you the outcome you want? That is not a message this body should endorse.

Proponents will say that using the budget process is the only way they can get an up-or-down vote. My response is simple. I know how hard it is to be very close to having the votes to pass legislation, but not quite being there. Senator MCCAIN and I worked very hard on our campaign finance reform legislation to get the votes need-

ed to move forward—it took years—but we stuck with it until we could get the legislation passed. We fought hard but we fought fair. We did not—and we would not have—tried to advance our legislation by manipulating the budget process. This single reconciliation instruction opening up the Arctic National Wildlife Refuge is simply out of bounds.

My concerns, however, go beyond the obvious abuse of process. The bottom line is that the revenue assumptions are highly speculative and in no way reflect reality. For a second, let's ignore the fact that last year a Bush adviser was quoted as saying that "even if you gave the oil companies the refuge for free, they wouldn't want to drill there" and let's look at the numbers.

The Congressional Budget Office assumes \$6 billion in revenues while the President's budget puts the number at \$7 billion. Based on past proposals, 400,000 to 600,000 acres in the Arctic National Wildlife Refuge would be on the leasing block. Therefore, to achieve the administration's estimate, companies would have to pay between \$17,500 and \$11,667 per acre to make it to the \$7 billion level. To get to CBO's estimate, they would have to pay between \$15,000 and \$10,000 per acre to get to a total of \$6 billion. Now let's consider these numbers a bit more closely to see how they line up with reality:

Since 1991, 40 lease sales on the North Slope and in near-shore waters have brought in an average of only \$60.47 per leased acre in real 2006 dollars. CBO's projections are 165 times greater than the inflation-adjusted average during the last 16 years.

Think that higher gas prices will mean higher lease bids? Think again. In December of 2005, CBO said that higher gas prices at the pump don't directly translate into higher lease bids by oil companies, and cited other factors—such as operating and capital costs and the attractiveness of competing projects elsewhere—that influence bid amounts.

Additionally, the reconciliation instruction assumes \$3 billion in Federal revenues, based on a 50/50 split between the State of Alaska and the U.S. Treasury. Given public statements by members of the Alaska delegation, as recently as last December, this 50/50 split is, at best, speculative.

Some may argue that oil company activities in the Arctic Refuge could be done in an environmentally safe manner. I would point out to them that earlier this month the largest crude oil spill in the history of oil and gas operations was discovered on Alaska's North Slope. To quote an employee of the Alaska Department of Environmental Conservation, "Hopefully, the tundra will recover. It's never going to be perfect." I don't think anyone wants to contemplate the possibility of such an accident occurring within the Arctic National Wildlife Refuge.

During his State of the Union Address, the President acknowledged our

addiction to oil. I hoped that this would mean we could move forward to discuss real energy solutions, solutions that protect our national security, our citizens, and our environment, as I continue to believe that we can do all three. In fact, there are bipartisan bills out there to move our transportation sector to renewable sources of energy and sadly we spend our time talking about this issue, an issue that divides us. When are we going to move past this divisive debate to discuss real energy solutions for the 21st century?

If we do not stand against misuse of the legislative process, then every member of this esteemed body is at risk. Today, I cast a vote against abuse and in favor of the integrity of the Senate.

---

#### EXECUTIVE SESSION

---

#### NOMINATION OF JACK ZOUHARY TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF OHIO

The PRESIDING OFFICER. Under the previous order, the Senate will go into executive session and proceed to consider the nomination of Jack Zouhary to be U.S. District Judge for the Northern District of Ohio, which the clerk will report.

The legislative clerk read the nomination of Jack Zouhary, of Ohio, to be United States District Judge for the Northern District of Ohio.

The PRESIDING OFFICER. Who yields time? The Senator from Vermont.

---

#### JUDICIAL NOMINATIONS

Mr. LEAHY. Mr. President, today the Senate considers two more lifetime appointments to U.S. courts. These confirmations will bring the total number of judicial appointments since January 2001 to 234, including the confirmations of two Supreme Court Justices and 43 circuit court judges. Of course, 100 judges were confirmed during the 17 months when there was a Democratic majority in the Senate. In the other 45 months, 134 judges have been confirmed. Ironically, under Democratic leadership, the Senate was almost twice as productive as under Republican leadership.

It is most regrettable that this President has not fulfilled his promise to the American people to be a uniter. Nor has he fulfilled his pledge to complete his work in advance of vacancies and to make nominations promptly. Judicial vacancies have grown to more than 50 and the White House has failed to send nominees for more than half of those. Some of those vacancies have been sitting empty for more than a year. Over and over the White House has missed the deadline the President established for himself, and today, more than half of the judicial vacancies, 27, are without nominations. One-

third of those vacancies are already more than 180 days old, and one-third of the judicial emergency vacancies are without nominees.

If the White House would eliminate its partisan, political, and ideological litmus tests from the judicial nominations process and its emphasis on rewarding cronies and focus only on qualifications and consensus, the job of selecting nominees and our job of considering them for confirmation would be much easier.

Jack Zouhary, the nominee from Ohio, has the support of his Republican home State Senators, and Stephen G. Larson, the nominee from California, has the support of his Democratic home State Senators. They are the kind of qualified consensus nominees who are confirmed relatively easily.

Recently we have seen the President withdraw a circuit nomination after information became public about that nominee's rulings in a number of cases in which he appears to have had a conflict of interest. Those conflicts were pointed out not by the administration's screening process or by the ABA but by online journalists.

At a minimum that case and other recent revelations reinforce a point about this White House's poor vetting process for important nominations. A number of nominations by this President have had to be withdrawn. Among the more well known are Bernard Kerik to head Homeland Security, Harriet Miers to the Supreme Court, and Claude Allen to be a Fourth Circuit judge. It was, as I recall, reporting in a national magazine that doomed the Kerik nomination. It was opposition within the President's own party that doomed the Miers nomination. Democratic Senators resisted the nomination of Allen, a Virginian, because the President was seeking to appoint someone from another State to a Maryland seat on the Fourth Circuit. When we are considering lifetime appointments of judicial officers who are entrusted with protecting the rights of Americans, it is important to be thorough. Unfortunately, all too often this White House seems more interested in rewarding cronies.

The Senate now considers two more lifetime appointments to U.S. courts. These confirmations will bring the total number of judicial appointments, since January 2001, to 234, including the confirmations of two Supreme Court Justices and 43 circuit court judges. Of course, 100 judges were confirmed during the 17 months when there was a Democratic majority in the Senate. In the other 45 months, 134 judges have been confirmed. Ironically, under Democratic leadership, the Senate was almost twice as productive as under Republican leadership.

It is most regrettable that this President has not fulfilled his promise to the American people to be a uniter. Nor has he fulfilled his pledge to complete his work in advance of vacancies and to make nominations promptly.

Judicial vacancies have grown to more than 50 and the White House has failed to send nominees for more than half of those. Some of those vacancies have been sitting empty for more than a year. Over and over the White House has missed the deadline the President established for himself, and today, more than half of the judicial vacancies, 27, are without nominations. One-third of those vacancies are already more than 180 days old and one-third of the judicial emergency vacancies are without nominees.

If the White House would eliminate its partisan political and ideological litmus tests from the judicial nominations process and its emphasis on rewarding cronies and focus only on qualifications and consensus, the job of selecting nominees and our job of considering them for confirmation would be much easier.

Jack Zouhary, the nominee from Ohio, has the support of his Republican home-State Senators and Stephen G. Larson, the nominee from California, has the support of his Democratic home-State Senators. They are the kind of qualified consensus nominees who are confirmed relatively easily.

Recently we have seen the President withdraw a circuit nomination after information became public about that nominee's rulings in a number of cases in which he appears to have had a conflict of interest. Those conflicts were pointed out not by the administration's screening process or by the ABA, but by online journalists.

At a minimum that case and other recent revelations reinforce a point about this White House's poor vetting process for important nominations. A number of nominations by this President have had to be withdrawn. Among the more well known are Bernard Kerik to head Homeland Security, Harriet Miers to the Supreme Court, and Claude Allen to be a Fourth Circuit judge. It was, as I recall, reporting in a national magazine that doomed the Kerik nomination. It was opposition within the President's own party that doomed the Miers nomination. Democratic Senators resisted the nomination of Allen, a Virginian, because the President was seeking to appoint someone from another State to a Maryland seat on the Fourth Circuit. When we are considering lifetime appointments of judicial officers who are entrusted with protecting the rights of Americans, it is important to be thorough. Unfortunately, all too often this White House seems more interested in rewarding cronies.

Mr. DEWINE. Mr. President, I rise today to speak in strong support of the nomination of Judge Jack Zouhary, whom the President has nominated to be United States District Court Judge for the Northern District of Ohio. Judge Zouhary currently is serving on the Lucas County Common Pleas Court. His service there has been outstanding and is an excellent indication of the type of judge he will be on the Federal bench.