

expansion of the wastewater treatment plant in Lake Havasu City, Arizona; \$1,000,000 may be for the expansion of the wastewater treatment plant in Avondale, Arizona;".

AMENDMENT NO. 1060, AS MODIFIED

Page 147, line 25 strike "\$72,500,000" and insert "\$74,500,000."

Page 148, line 1 after "2007" insert "of which \$2,000,000 is for Historically Black Colleges and Universities."

Page 172, line 4 strike "\$10,000,000" and insert "\$12,000,000."

AMENDMENT NO. 1055, AS MODIFIED

(Purpose: To provide for the consideration of the effect of competitive sourcing on wildland fire management activities)

On page 250, between lines 23 and 24, insert the following:

(e) In carrying out any competitive sourcing study involving Forest Service employees, the Secretary of Agriculture shall—

(1) determine whether any of the employees concerned are also qualified to participate in wildland fire management activities; and

(2) take into consideration the effect that contracting with a private sector source would have on the ability of the Forest Service to effectively and efficiently fight and manage wildfires.

AMENDMENT NO. 1030, AS MODIFIED

(Purpose: To modify a provision relating to funds appropriated for Bureau of Indian Affairs postsecondary schools)

On page 182, strike lines 20 through 25 and insert the following:

SEC. 110.(a)(1) For fiscal year 2006 and each succeeding fiscal year, any funds made available by this Act for the Southwest Indian Polytechnic Institute and Haskell Indian Nations University for postsecondary programs of the Bureau of Indian Affairs in excess of the amount made available for those postsecondary programs for fiscal year 2005 shall be allocated in direct proportion to the need of the schools, as determined in accordance with the postsecondary funding formula adopted by the Office of Indian Education Programs.

(2) For fiscal year 2007 and each succeeding fiscal year, the Bureau of Indian Affairs shall use the postsecondary funding formula adopted by the Office of Indian Education Programs based on the needs of the Southwest Indian Polytechnic Institute and Haskell Indian Nations University to justify the amounts submitted as part of the budget request of the Department of the Interior.

AMENDMENT NO. 1020, AS MODIFIED

(Purpose: To express the Sense of the Senate that defense spending should not be underfunded to support increases in non-defense spending)

At the appropriate place, insert the following:

SEC. ____ (a) FINDINGS.—The Senate makes the following findings:

(1) The on-budget deficit for fiscal year 2005 is estimated to be \$541 billion according to the Congressional Budget Office.

(2) Total publicly-held federal debt on which the American taxpayer pays interest is expected to reach \$6 trillion by 2011 according to the Congressional Budget Office.

(3) The United States and its allies are currently engaged in a global war on terrorism.

(b) SENSE OF THE SENATE.—IT IS THE SENSE OF THE SENATE THAT:

(1) The servicemen and women of the United States Armed Forces deserve the full support of the Senate as they seek to preserve the safety and security of the American people.

(2) Activities relating to the defense of the United States and the global war on terror should be fully funded.

(3) Activities relating to the defense of the United States and the global war on terror should not be underfunded in order to support increased federal spending on non-defense discretionary activities.

ORDER OF PROCEDURE

Mr. BURNS. Mr. President, I ask unanimous consent that other than a series of amendments which have been cleared by both managers, all other amendments be withdrawn, with the exception of the following amendments, and, further, that the amendments be considered as follows:

Boxer amendment No. 1023, regarding pesticides; I or my designee with a first degree relating to pesticides; further that there be 120 minutes equally divided to be used concurrently on both amendments, with a vote in relation to my amendment, followed by a vote in relation to the Boxer amendment;

Dorgan amendment No. 1025, regarding Indian health, 20 minutes equally divided;

Amendment No. 1026, offered by Mr. SUNUNU, regarding the Tongass, 30 minutes equally divided;

Senator MURRAY's amendment No. 1052, regarding veterans health; Senator SANTORUM's second-degree amendment to the Murray amendment relating to veterans health; provided that there be 110 minutes equally divided between the two leaders or their designees to be used concurrently on the first and second-degree amendments;

Senator DORGAN's amendment No. 1059, regarding Cuba travel, 20 minutes equally divided; provided that the vote occur in relation to the motion to suspend the rules relative to that amendment; further, that if the motion to suspend is agreed to, the amendment be subject to further debate and amendment;

Senator KYL's amendment No. 1050, 5 minutes for Senator KYL, with the amendment then withdrawn;

Senator SARBANES' amendment No. 1046, 5 minutes saved for Senator SARBANES.

Finally, I ask unanimous consent that the votes occur in relation to the above-listed amendments, with no second degrees in order to the amendments prior to the votes unless otherwise indicated; further that following the disposition of the above amendments, the bill be read a third time and the Senate proceed to a vote on passage of the bill, with no intervening action or debate.

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

MORNING BUSINESS

Mr. BURNS. Mr. President, I ask unanimous consent that there now be a period for morning business, with Senators permitted to speak for up to 10 minutes each.

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

VOTE EXPLANATION

Mr. FRIST. Mr. President, Senator DOLE is unable to vote on amendments

this evening because she is in North Carolina where she testified early this afternoon before the BRAC Commission, and this evening is with the President at Ft. Bragg in Fayetteville, NC, where the President is addressing the Nation on the 1-year anniversary of the transfer of sovereignty to the Iraqi people.

Mr. CONRAD. Mr. President, last week I traveled to Grand Forks, ND, to organize and present testimony at a regional hearing of the Base Realignment and Closure, BRAC, Commission on the Grand Forks Air Force Base and Fargo's Air National Guard installation. These facilities are critically important to our national security and to my State's economy. As North Dakota's senior Senator, it was my pleasure and responsibility to host the Commission hearing. As a result, I was necessarily absent from the Senate and missed rollcall votes No. 145–153 on the Energy bill.

PRESIDENT'S ADDRESS TO AMERICA

Mr. KENNEDY. Mr. President, whatever our position on the Iraq war, we should all be concerned that the President does not have a winning strategy on Iraq. Our current strategy is not working, and Congress and the American people know it. I say this with sorrow and regret for our troops, for their families, and for our country.

Administration officials repeatedly claim that the insurgents are desperate, dead-enders, and in their last throes. The American people know they are not. Secretary Rumsfeld insists progress has been solid. With American casualties currently averaging nearly three a day, the American people know it is not. Secretary Rumsfeld insists the Army is not being stretched to the breaking point, but month after month recruiting goals go unmet and generals are sounding the alarm. Secretary Rumsfeld insists that we are not in a quagmire. The American people believe we are.

Secretary Rumsfeld says the administration is not painting a rosy picture. The American people know that they are. By last June, after the President declared mission accomplished, 852 American servicemembers had been killed in action. Today, the number has doubled to more than 1,700. By last June, 5,000 American servicemembers had been wounded in action. Today, the number has nearly tripled to over 13,000. A year ago, the United States had 34 coalition partners in Iraq. Today, we have just 25, and another 5 are scheduled to pull out by the end of the year.

The administration has been consistently wrong about Iraq. The American people know things are not going well and that we need to correct the course we are on. The administration statements do not square with reality, and the credibility gap continues to widen. It is ironic that Americans are learning

the truth not from our own administration but from an ally. The truth should come from the White House and not Downing Street.

More than anything else, what America hopes to hear from the President tonight is the unvarnished truth of what is really going on in Iraq, how he plans to put a new strategy in place and assure success. He needs to clearly articulate our goals, the benchmarks for measuring progress, and the game plan to win. When President Bush addresses the Nation tonight, all of us hope he will state a new and more realistic and more effective strategy for the United States to succeed in Iraq.

Our current strategy is not worthy of the sacrifices our men and women in uniform are making. The war has clearly made America less safe in the world. It has strengthened the support for al-Qaida and made it harder to win the real war against terrorism, the war against al-Qaida.

The President needs an effective strategy to accelerate the training of a capable Iraqi security force. The President needs an effective strategy to rescue the faltering reconstruction effort, create new jobs, new hope for the Iraqi people, and neutralize the temptation to join the insurgents. The President needs an effective strategy to bring the international community into Iraq and to achieve the adoption on schedule of a constitution that protects all the people of Iraq. He needs an effective strategy to give our troops the equipment they need to fight the war and to ensure that veterans returning from Iraq have access to the quality health care services they so richly deserve. He needs an effective strategy to repair the damage the war has caused to our military and to our reputation in the world.

Realism is hard medicine to swallow. President Bush must face the facts and accept them. Our men and women in uniform deserve no less. Our strategy is not working, and I hope the President will outline a winning strategy this evening.

SUPREME COURT

Mr. KENNEDY. Mr. President, on another matter, we all wish the very best to Chief Justice Rehnquist. He has made the quality of the Federal courts the special mission of his leadership, and the Nation and judiciary are grateful for that leadership. Hopefully, he will continue to serve as long as he wishes and is able.

In the event of a resignation, a new Justice should be someone who is committed to the rule of law and the rights and freedoms of all Americans and can therefore win broad support in the Senate and the Nation. Like many Presidents before him, the President can easily choose such a nominee if he follows the constitutional requirement that he obtain the Senate's advice as well as its consent. I hope President Bush chooses the path of consultation

and consensus and not the path of confrontation and conflict.

The Constitution requires the Senate to be an independent check on the President, especially in protecting the independence and fairness of our judges. The Founders very deliberately made the appointment of Federal judges a shared responsibility of the Senate and the President. It is ridiculous for some on the other side to claim that the Founders would not have wanted such consultation to occur. In fact, the Founders came within a hair's breath of assigning the entire responsibility for appointing judges to the Senate. It was a last-minute compromise at the Constitutional Convention in Philadelphia in 1787 that gave the responsibility to the President but only with the advice and consent of the Senate.

As the chairman of the Senate Judiciary Committee has clearly pointed out, the advice function is as important as the consent function in the exercise of the shared power of the President and the Senate in appointing judges and Justices. Presidents all the way back to George Washington and right up to Bill Clinton have consulted with the Senate on Supreme Court nominations, and when they have done so the result has been a better Supreme Court.

The wise procedure was made even more explicit in the memorandum of understanding written by the 14 Senators from both parties last month when they urged the President to consult with Members of both parties in the Senate. Why are some of our Republican colleagues in the Senate so opposed to such consultation? Do they fear that if the President seeks the advice of a broad range of Senators, he may be persuaded to make a consensus nomination to the Supreme Court? Are they against consensus? Do they see the Supreme Court nominations merely as political footballs in their political games? Before any person can be appointed to the Federal court, the Senate and the President have to agree that the person will be best for the whole country, not just for a narrow ideological and radical faction.

Some Presidents have ignored the requirement to obtain the advice of the Senate, but no President can avoid the requirement to obtain the consent of the Senate. I certainly hope President Bush will not heed those who think consultation and consensus are obsolete. Whether the confirmation process goes smoothly will be determined by the President's selection.

He can pick judges with us as the Founders wanted or he can pick fights with us as some of his political advisers and Senate friends seem to want.

The President's choice is clear. He could follow the Constitution and seek the advice of the Senate before he makes a nomination. If he does that, the confirmation process is more likely to be expeditious, constructive, and a unifying force for the entire Nation. Or

he can listen only to the advice of the fringe factions of his own party, people so extreme they have even called for the impeachment of six of the current nine Justices because those Justices refuse to bow to the ideological dictates of the rightwing. If he does that, the confirmation process will be divisive and corrosive and likely unsuccessful. There are hundreds if not thousands of excellent lawyers and judges who could be consensus choices for the Supreme Court, and Senators will help the President find them if he seeks our advice. If he takes our bipartisan advice, he will have no trouble obtaining our bipartisan consent.

The next person who serves on the Supreme Court will not just serve for the remainder of the Bush administration. The lives and freedoms and rights of our children and our grandchildren may well be directly affected by the decisions of that Justice in the coming decades. For their sake and the Nation's sake we cannot accept a choice based on partisan politics or ideological agendas. What the Court and the Nation need is a demonstrated commitment to the rule of law and the basic values of our Constitution. I urge President Bush to listen to a respected former Republican, Senator John Danforth:

If he truly wants to appoint a conservative he should make sure it is a judicial conservative, someone who is going to apply the law, not his political or philosophical beliefs.

PRESIDENT BUSH'S IRAQ STATEMENT

Mr. KERRY. Mr. President, tonight, as we all know, President Bush is going to speak to the Nation about the situation in Iraq. I think that we all have a pretty good sense of much of what he is going to say. He will talk, as he should, about the extraordinary courage of our troops across the world; he will talk, as he should, about the march of democracy; and he will speak with pride about Iraqi elections and the end of tyranny. He will stress, as we all share, the importance of the war on terror. All of us in this Chamber stand in awe of the courage of our troops and all of us in this Chamber and in this country are passionate about democracy. But the fact is that honoring our troops and extolling the virtue of democracy, those words alone are not going to be enough to improve the situation and the reality of the perilous direction that we are currently headed in Iraq. What we need are not just the words extolling the virtues of things with which we all agree. What we need is a policy that is going to address the complex and in some ways self-inflicted predicament that we face today. The best way to honor troops, Mr. President, the best way to protect our troops, is to provide them with the best policy possible. The fact is that that is not what we have today. Yesterday, I attended the funeral of Christopher Piper of Marblehead, MA, special