

“(1) begins on the date of the call or order; and

“(2) ends on the earlier of—

“(A) the date on which the reserve component member's eligibility for transitional health care under section 1145(a) of this title terminates under paragraph (3) of such section; or

“(B) the date on which the reserve component member elects to terminate the continued qualified health benefits plan coverage of the member's family members.

“(g) EXTENSION OF PERIOD OF COBRA COVERAGE.—Notwithstanding any other provision of law—

“(1) any period of coverage under a COBRA continuation provision (as defined in section 9832(d)(1) of the Internal Revenue Code of 1986) for an eligible reserve component member under this section shall be deemed to be equal to the benefits coverage continuation period for such member under this section; and

“(2) with respect to the election of any period of coverage under a COBRA continuation provision (as so defined), rules similar to the rules under section 4980B(f)(5)(C) of such Code shall apply.

“(h) NONDUPLICATION OF BENEFITS.—A member of the family of a reserve component member who is eligible for benefits under qualified health benefits plan coverage paid on behalf of the reserve component member by the Secretary concerned under this section is not eligible for benefits under the TRICARE program during a period of the coverage for which so paid.

“(i) REVOCABILITY OF ELECTION.—A reserve component member who makes an election under subsection (a) may revoke the election. Upon such a revocation, the member's family members shall become eligible for benefits under the TRICARE program as provided for under this chapter.

“(j) REGULATIONS.—The Secretary of Defense shall prescribe regulations for carrying out this section. The regulations shall include such requirements for making an election of payment of applicable premiums as the Secretary considers appropriate.”.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1078a the following new item:

“1078b. Continuation of non-TRICARE health benefits plan coverage for dependents of certain Reserves called or ordered to active duty.”.

(b) APPLICABILITY.—Section 1078b of title 10, United States Code (as added by subsection (a)), shall apply with respect to calls or orders of members of reserve components of the Armed Forces to active duty as described in subsection (b) of such section, that are issued by the Secretary of a military department before, on, or after the date of the enactment of this Act, but only with respect to qualified health benefits plan coverage (as described in subsection (c) of such section) that is in effect on or after the date of the enactment of this Act.

**SA 3259.** Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

On page 365, between lines 18 and 19, insert the following:

**SEC. 2830. MODIFICATION OF AUTHORITY FOR LAND CONVEYANCE, EQUIPMENT AND STORAGE YARD, CHARLESTON, SOUTH CAROLINA.**

Section 563(h) of the Water Resources Development Act of 1999 (Public Law 106-53; 113 Stat. 360) is amended to read as follows:

“(h) CHARLESTON, SOUTH CAROLINA.—

“(1) IN GENERAL.—The Secretary may convey all right, title, and interest of the United States in and to a parcel of real property of the Corps of Engineers, together with any improvements thereon, that is known as the Equipment and Storage Yard and is located on Meeting Street in Charleston, South Carolina, in as-is condition.

“(2) CONSIDERATION.—As consideration for the conveyance of property under paragraph (1), the party to which such property is conveyed shall provide the United States, whether by cash payment, exchange of property or facilities, or a combination thereof, an amount that is not less than the fair market value of the property conveyed, as determined by the Secretary.

“(3) DISCHARGE OF AUTHORITY THROUGH DIVISION ENGINEER, SOUTH ATLANTIC DIVISION.—The Division Engineer, South Atlantic Division, may, on behalf of the United States, execute deeds of conveyance and accept the consideration described in paragraph (2) in connection with the conveyance of property under paragraph (1).

“(4) USE OF PROCEEDS.—Amounts received as consideration under this subsection may be used by the Corps of Engineers, Charleston District—

“(A) to cover costs associated with the lease, purchase, or construction of an office facility within the boundaries of Charleston, Berkeley, and Dorchester Counties, South Carolina, notwithstanding any requirements in the Plant Replacement and Improvement Program (PRIP), or existing PRIP balances;

“(B) to cover any of the costs previously incurred in connection with the move of the District Headquarters of the Charleston District; or

“(C) to cover any of the costs previously incurred in connection with the Equipment and Storage Yard.”.

**SA 3260.** Mr. WARNER (for himself, Mr. LEVIN, and Mr. STEVENS) proposed an amendment to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; as follows:

On page 239, between lines 2 and 3, insert the following:

**SEC. 1006. AUTHORIZATION OF APPROPRIATIONS FOR A CONTINGENT EMERGENCY RESERVE FUND FOR OPERATIONS IN IRAQ AND AFGHANISTAN.**

(a) AUTHORIZATION OF SUPPLEMENTAL APPROPRIATIONS.—In addition to any other amounts authorized to be appropriated by this Act, there is hereby authorized to be appropriated for the Department of Defense for fiscal year 2005, subject to subsections (b) and (c), \$25,000,000,000, to be available only for activities in support of operations in Iraq and Afghanistan.

(b) SPECIFIC AMOUNTS.—Of the amount authorized to be appropriated under subsection (a), funds are authorized to be appropriated in amounts for purposes as follows:

(1) For the Army for operation and maintenance, \$14,000,000,000.

(2) For the Navy for operation and maintenance, \$1,000,000,000.

(3) For the Marine Corps for operation and maintenance, \$2,000,000,000.

(4) For the Air Force for operation and maintenance, \$1,000,000,000.

(5) For operation and maintenance, Defense-wide activities, \$2,000,000,000.

(6) For military personnel, \$2,000,000,000.

(7) An additional amount of \$3,000,000,000 to be available for transfer to—

(A) operation and maintenance accounts;

(B) military personnel accounts;

(C) research, development, test, and evaluation accounts;

(D) procurement accounts;

(E) classified programs; and

(F) Coast Guard operating expenses.

(c) AUTHORIZATION CONTINGENT ON BUDGET REQUEST.—The authorization of appropriations in subsection (a) shall be effective only to the extent that a budget request for all or part of the amount authorized to be appropriated under such subsection for the purposes set forth in such subsection is transmitted by the President to Congress after the date of the enactment of this Act and includes a designation of the requested amount as an emergency and essential to support activities in Iraq and Afghanistan.

(d) TRANSFER AUTHORITY.—(1) Of the amount authorized to be appropriated under subsection (b)(7) for transfer, no transfer may be made until the Secretary of Defense consults with the Chairmen and Ranking Members of the congressional defense committees and then notifies such committees in writing not later than five days before the transfer is made.

(2) The transfer authority provided under this section is in addition to any other transfer authority available to the Department of Defense.

(e) MONTHLY REPORT.—The Secretary of Defense shall submit to the congressional defense committees each month a report on the use of funds authorized to be appropriated under this section. The report for a month shall include in a separate display for each of Iraq and Afghanistan, the activity for which the funds were used, the purpose for which the funds were used, the source of the funds used to carry out that activity, and the account to which those expenditures were charged.

**AUTHORITY FOR COMMITTEES TO MEET**

**COMMITTEE ON ARMED SERVICES**

Mr. GRAHAM of South Carolina. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on June 2, 2004, at 10:15 a.m., in closed session to receive a briefing on the situation in Iraq.

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

**COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS**

Mr. GRAHAM of South Carolina. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, June 2, 2004, at 10 a.m., to conduct a hearing on “The Role of State Securities Regulators in Protecting Investors.”

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

**COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION**

Mr. GRAHAM of South Carolina. Mr. President, I ask unanimous consent that the Committee on Commerce,

Science, and Transportation be authorized to meet Wednesday, June 2, 2004, at 9:30 a.m. on fire fighting aircraft.

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

COMMITTEE ON COMMERCE, SCIENCE, AND  
TRANSPORTATION

Mr. GRAHAM of South Carolina. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet Wednesday, June 2, 2004, at 2:30 p.m. on nominations.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. GRAHAM of South Carolina. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, June 2, 2003, at 9:30 a.m., to hold a hearing on the Greater Middle East Initiative.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. GRAHAM of South Carolina. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Wednesday, June 2, 2004 at 10 a.m. to hold a business meeting to consider pending Committee business.

AGENDA

*Legislation*

1. S. 2468, Postal Accountability and Enhancement Act.

2. S. 346, a bill to amend the Office of Federal Procurement Policy Act to establish a governmentwide policy requiring competition in certain executive agency procurements.

3. S. 1230, a bill to provide for additional responsibilities for the Chief Information Officer of the Department of Homeland Security relating to geospatial information.

4. S. 1292, Servitude and Emancipation Archival Research Clearing-House Act of 2003.

5. S. 1358, Federal Employee Protection of Disclosures Act.

6. S. 2249, Emergency Food and Shelter Act of 2004.

7. S. 2322, a bill to amend chapter 90 of title 5, United States Code, to include employees of the District of Columbia courts as participants in long term care insurance for federal employees.

8. S. 2347, a bill to amend the District of Columbia Access Act of 1999 to permanently authorize the public school and private school tuition assistance programs established under the Act.

9. S. 2351, Emergency Medical Services Support Act.

10. S. 2409, a bill to provide for continued health benefits coverage for certain federal employees.

11. S. 2479, a bill to amend chapter 84 of title 5, United States Code, to provide for federal employees to make elections to make, modify, and terminate contributions to the Thrift Savings Fund at any time.

12. H.R. 1303, a bill to amend the E-Government Act of 2002 with respect to rulemaking authority of the Judicial Conference.

*Items for Approval*

1. Committee Amendment to S. 1245, Homeland Security Grant Enhancement Act of 2003.

*Post Office Naming Bills*

1. S. 2017/H.R. 3742, a bill to designate the facility of the United States Postal Service, located at 93 Atocha Street in Ponce, Puerto Rico, as the "Luis A. Ferre United States Courthouse and Post Office Building".

2. S. 2214, a bill to designate the facility of the United States Postal Service, located at 3150 Great Northern Avenue in Missoula, Montana, as the "Mike Mansfield Post Office".

3. S. 2415, a bill to designate the facility of the United States Postal Service, located at 4141 Postmark Drive in Anchorage, Alaska, as the "Robert J. Opinsky Post Office Building".

4. H.R. 1822, a bill to designate the facility of the United States Postal Service, located at 3751 West 6th Street in Los Angeles, California, as the "Dosan Ahn Chang Ho Post Office Building".

5. H.R. 2130, a bill to designate the facility of the United States Postal Service, located at 121 Kinderkamack Road in River Edge, New Jersey, as the "New Bridge Landing Post Office".

6. H.R. 2438, a bill to designate the facility of the United States Postal Service, located at 115 West Pine Street in Hattiesburg, Mississippi, as the "Major Henry A. Commiskey, Sr., Post Office Building".

7. H.R. 3029/S. 1596, a bill to designate the facility of the United States Postal Service, located at 225 North Main Street in Jonesboro, Georgia as the "S. Truett Cathy Post Office Building".

8. H.R. 3059, to designate the facility of the United States Postal Service, located at 304 West Michigan Street in Stuttgart, Arkansas, as the "Lloyd L. Burke Post Office".

9. H.R. 3068, to designate the facility of the United States Postal Service, located at 2055 Siesta Drive in Sarasota, Florida, as the "Brigadier General (AUS-Ret.) John H. McLain Post Office".

10. H.R. 3234/S. 1763, to designate the facility of the United States Postal Service, located at 14 Chestnut Street in Liberty, New York, as the "Ben R. Gerow Post Office Building".

11. H.R. 3300, to designate the facility of the United States Postal Service, located at 15500 Pearl Road in Strongsville, Ohio, as the "Walter F. Ehrnfelt, Jr. Post Office Building".

12. H.R. 3353, to designate the facility of the United States Postal Service, located at 525 Main Street in Tarboro, North Carolina, as the "George Henry White Post Office Building".

13. H.R. 3536, to designate the facility of the United States Postal Service, located at 210 Main Street in Malden, Illinois, as the "Army Staff Sgt. Lincoln Hollinsaid Malden Post Office".

14. H.R. 3537, to designate the facility of the United States Postal Service, located at 185 State Street in Manhattan, Illinois, as the "Army Pvt. Shawn Pahnke Manhattan Post Office".

15. H.R. 3538, to designate the facility of the United States Postal Service, located at 201 South Chicago Avenue in Saint Anne, Illinois, as the "Marine Capt. Ryan Beaupre Saint Anne Post Office".

16. H.R. 3690/S. 2104, a bill to designate the facility of the United States Postal Service, located at 2 West Main Street in Batavia, New York, as the "Barber Conable Post Office Building".

17. H.R. 3733, a bill to designate the facility of the United States Postal Service, located at 410 Huston Street in Altamont, Kansas, as the "Myron V. George Post Office".

18. H.R. 3740/S. 2153, to designate the facility of the United States Postal Service, located at 223 South Main Street in Roxboro, North Carolina, as the "Oscar Scott Woody Post Office Building".

19. H.R. 3769, to designate the facility of the United States Postal Service, located at 137 East Young High Pike in Knoxville, Tennessee, as the "Ben Atchly Post Office Building".

20. H.R. 3855/S. 2441, to designate the facility of the United States Postal Service, located at 607 Pershing Drive in Laclede, Missouri, as the "General John J. Pershing Post Office".

21. H.R. 3917/S. 2255, to designate the facility of the United States Postal Service, located at 695 Marconi Boulevard in Copiague, New York, as the "Maxine S. Postal United States Post Office Building".

22. H.R. 3939/S. 2291, to designate the facility of the United States Postal Service, located at 14-24 Abbott Road in Fair Lawn, New Jersey, as the "Mary Ann Collura Post Office Building".

23. H.R. 3942, to redesignate the facility of the United States Postal Service, located at 7 Commercial Boulevard in Middletown, Rhode Island, as the "Rhode Island Veterans Post Office Building".

24. H.R. 4037/S. 2442, to designate the facility of the United States Postal Service, located at 475 Kell Farm Drive in Cape Girardeau, Missouri, as the "Richard G. Wilson Processing and Distribution Facility".

25. H.R. 4176, to designate the facility of the United States Postal Service, located at 122 West Elwood Avenue in Raeford, North Carolina, as the "Bobby Marshall Gentry Post Office Building".

26. H.R. 4299, to designate the facility of the United States Postal Service, located at 410 South Jackson Road in Edinsburg, Texas, as the "Dr. Miguel A. Nevarez Post Office Building".

*Nominations*

1. Albert Casey, to be a Governor for the United States Postal Service.

2. James C. Miller, III, to be a Governor for the United States Postal Service.

3. David Safavian, to be Administrator for Federal Procurement Policy, Office of Management and Budget.

4. Dawn Tisdale, to be Commissioner, Postal Rate Commission.

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

SUBCOMMITTEE ON CONSTITUTION, CIVIL RIGHTS, AND PROPERTY RIGHTS

Mr. GRAHAM of South Carolina. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on Constitution, Civil Rights and Property Rights be authorized to meet to conduct a markup on Tuesday, June 2, 2004 at 1:30 p.m. in Dirksen Senate Office Building Room 226.

#### Agenda

S. J. Res. 4, a joint resolution proposing an amendment to the Constitution of the United States authorizing Congress to prohibit the physical desecration of the flag of the United States.

Note: As agreed by Senators CORNYN and FEINGOLD, only amendments circulated to all other members of the subcommittee by 12:00 noon on Tuesday, June 1, 2004 shall be in order.

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

### AMERICAN INDIAN PROBATE REFORM ACT OF 2004

Mr. TALENT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 515, S. 1721.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1721) to amend the Indian Land Consolidation Act to improve provisions relating to probate of trust and restricted land, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Indian Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 1721

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### [SECTION 1. SHORT TITLE.

[This Act may be cited as the "American Indian Probate Reform Act of 2003".

#### [SEC. 2. FINDINGS.

[Congress finds that—

[(1) the Act of February 8, 1887 (commonly known as the "Indian General Allotment Act") (25 U.S.C. 331 et seq.), which authorized the allotment of Indian reservations, did not permit Indian allotment owners to provide for the testamentary disposition of the land that was allotted to them;

[(2) that Act provided that allotments would descend according to State law of intestate succession based on the location of the allotment;

[(3) the reliance of the Federal Government on the State law of intestate succe-

sion with respect to the descent of allotments has resulted in numerous problems affecting Indian tribes, members of Indian tribes, and the Federal Government, including

[(A) the increasingly fractionated ownership of trust and restricted land as that land is inherited by successive generations of owners as tenants in common;

[(B) the application of different rules of intestate succession to each interest of a decedent in or to trust or restricted land if that land is located within the boundaries of more than 1 State, which application—

[(i) makes probate planning unnecessarily difficult; and

[(ii) impedes efforts to provide probate planning assistance or advice;

[(C) the absence of a uniform general probate code for trust and restricted land, which makes it difficult for Indian tribes to work cooperatively to develop tribal probate codes; and

[(D) the failure of Federal law to address or provide for many of the essential elements of general probate law, either directly or by reference, which—

[(i) is unfair to the owners of trust and restricted land (and heirs and devisees of owners); and

[(ii) makes probate planning more difficult; and

[(4) a uniform Federal probate code would likely—

[(A) reduce the number of fractionated interests in trust or restricted land;

[(B) facilitate efforts to provide probate planning assistance and advice;

[(C) facilitate intertribal efforts to produce tribal probate codes in accordance with section 206 of the Indian Land Consolidation Act (25 U.S.C. 2205); and

[(D) provide essential elements of general probate law that are not applicable on the date of enactment of this Act to interests in trust or restricted land.

#### [SEC. 3. INDIAN PROBATE REFORM.

[(a) TESTAMENTARY DISPOSITION.—Section 207 of the Indian Land Consolidation Act (25 U.S.C. 2206) is amended by striking subsection (a) and inserting the following:

["(a) TESTAMENTARY DISPOSITION.—

["(1) GENERAL DEVISE OF AN INTEREST IN TRUST OR RESTRICTED LAND.—

["(A) IN GENERAL.—Subject to any applicable Federal law relating to the devise or descent of trust or restricted land, or a tribal probate code approved by the Secretary in accordance with section 206, the owner of an interest in trust or restricted land may devise such an interest to—

["(i) an Indian tribe with jurisdiction over the land; or

["(ii) any Indian; or

["(iii) any lineal descendant of the testator; or

["(iv) any person who owns a preexisting undivided trust or restricted interest in the same parcel of land;

in trust or restricted status.

["(B) RULE OF INTERPRETATION.—Any devise of an interest in trust or restricted land or personal property to a devisee listed in subparagraph (A) shall be considered to be a devise of the interest in trust or restricted status, unless—

["(i) language in the will clearly evidences the testator's intent that the interest is to vest in the devisee as a fee interest without restrictions; or

["(ii) the interest devised is a life estate.

["(2) DEVISE OF TRUST OR RESTRICTED LAND AS A LIFE ESTATE OR IN FEE.—

["(A) IN GENERAL.—Except as provided under any applicable Federal law, any interest in trust or restricted land that is not devised in accordance with paragraph (1) may be devised only—

["(i) as a life estate without regard to waste to any person, with the remainder being devised only in accordance with subparagraph (B) or paragraph (1); or

["(ii) except as provided in subparagraph (B), in fee to any person.

["(B) LIMITATION.—Any interest in trust or restricted land that is subject to section 4 of the Act of June 18, 1934 (25 U.S.C. 464), may be devised only in accordance with—

["(i) that section;

["(ii) subparagraph (A)(i); or

["(iii) paragraph (1).

["(3) GENERAL DEVISE OF AN INTEREST IN TRUST OR RESTRICTED PERSONAL PROPERTY.—

["(A) TRUST OR RESTRICTED PERSONAL PROPERTY DEFINED.—The term "Trust or restricted personal property" as used in this section includes—

["(i) all funds and securities of any kind which are held in trust in an individual Indian money account or otherwise supervised for the decedent by the Secretary; and

["(ii) absent clear evidence to the contrary, all personal property permanently affixed to trust or restricted lands.

["(B) IN GENERAL.—Subject to any applicable Federal law relating to the devise or descent of such trust or restricted personal property, or a tribal probate code approved by the Secretary in accordance with section 206, the owner of an interest in trust or restricted personal property may devise such an interest to any person or entity.

["(C) MAINTENANCE AS TRUST OR RESTRICTED PERSONAL PROPERTY.—Except as provided in paragraph (1)(B), where an interest in trust or restricted personal property is devised to a devisee listed in paragraph (1)(A), the Secretary shall maintain and continue to manage such interests as trust or restricted personal property.

["(D) DIRECT DISBURSEMENT AND DISTRIBUTION.—In the case of a devise of an interest in trust or restricted personal property to a devisee not listed in paragraph (1)(A), the Secretary shall directly disburse and distribute such personal property to the devisee.

["(4) INELIGIBLE DEVISEES OF TRUST OR RESTRICTED INTEREST; INVALID WILLS.—Any interest in trust or restricted land or personal property that is devised as a trust or restricted interest to a devisee not listed in subparagraph (A) of paragraph (1) shall descend to the devisee as a fee interest. Any interest in trust or restricted land or personal property that is not disposed of by a valid will shall descend in accordance with the applicable law of intestate succession as provided for in subsection (b)."]

[(b) NONTESTAMENTARY DISPOSITION.—Section 207 of the Indian Land Consolidation Act (25 U.S.C. 2206) is amended by striking subsection (b) and inserting the following:

["(b) NONTESTAMENTARY DISPOSITION.—

["(1) RULES OF DESCENT.—Subject to any applicable Federal law relating to the devise or descent of trust or restricted property, any interest in trust or restricted property, including personal property, that is not disposed of by a valid will—

["(A) shall descend according to a tribal probate code that is approved in accordance with section 206; or

["(B) in the case of an interest in trust or restricted property to which such a code does not apply, shall descend in accordance with—

["(i) paragraphs (2) through (4); and

["(ii) other applicable Federal law.

["(2) RULES GOVERNING DESCENT OF ESTATE.—

["(A) SURVIVING SPOUSE.—If there is a surviving spouse of the decedent, such spouse shall receive trust and restricted property in the estate as follows:

["(i) If the decedent is survived by an heir described in subparagraph (B) (i), (ii), (iii), or