

“(d) **ADDITIONAL PROCUREMENT REQUIREMENTS.**—Unless the study conducted under subsection (c) identifies any effects or other problems described in subsection (c)(2)(C)(iii) that warrant further review or delay, the Administrator and each agency head shall, not later than 1 year after the release of the report in accordance with subsection (c)(3), take additional actions authorized under this Act to establish procurement requirements and incentives that provide for the use of cement and concrete with increased substitution of recovered mineral component in the construction and maintenance of cement or concrete projects, so as to—

“(1) realize more fully the energy savings and environmental benefits associated with increased substitution; and

“(2) eliminate barriers identified under subsection (c).

“(e) **EFFECT OF SECTION.**—Nothing in this section affects the requirements of section 6002 (including the guidelines and specifications for implementing those requirements).”

(b) **TABLE OF CONTENTS AMENDMENT.**—The table of contents in section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is amended by adding after the item relating to section 6004 the following:

“Sec. 6005. Increased use of recovered mineral component in federally funded projects involving procurement of cement or concrete.”

#### **SEC. 8002. USE OF GRANULAR MINE TAILINGS.**

(a) **IN GENERAL.**—Subtitle F of the Solid Waste Disposal Act (42 U.S.C. 6961 et seq.) (as amended by section 8001(a)) is amended by adding at the end the following:

#### **“SEC. 6006. USE OF GRANULAR MINE TAILINGS.**

“(a) **MINE TAILINGS.**—

“(1) **IN GENERAL.**—Not later than 180 days after the date of enactment of this section, the Administrator, in consultation with the Secretary of Transportation and heads of other Federal agencies, shall establish criteria (including an evaluation of whether to establish a numerical standard for concentration of lead and other hazardous substances) for the safe and environmentally protective use of granular mine tailings from the Tar Creek, Oklahoma Mining District, known as ‘chat’, for—

“(A) cement or concrete projects; and

“(B) transportation construction projects (including transportation construction projects involving the use of asphalt) that are carried out, in whole or in part, using Federal funds.

“(2) **REQUIREMENTS.**—In establishing criteria under paragraph (1), the Administrator shall consider—

“(A) the current and previous uses of granular mine tailings as an aggregate for asphalt; and

“(B) any environmental and public health risks and benefits derived from the removal, transportation, and use in transportation projects of granular mine tailings.

“(3) **PUBLIC PARTICIPATION.**—In establishing the criteria under paragraph (1), the Administrator shall solicit and consider comments from the public.

“(4) **APPLICABILITY OF CRITERIA.**—On the establishment of the criteria under paragraph (1), any use of the granular mine tailings described in paragraph (1) in a transportation project that is carried out, in whole or in part, using Federal funds, shall meet the criteria established under paragraph (1).

“(b) **EFFECT OF SECTIONS.**—Nothing in this section or section 6005 affects any requirement of any law (including a regulation) in effect on the date of enactment of this section.”

(b) **CONFORMING AMENDMENT.**—The table of contents in section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) (as amended by section 8001(b)) is amended by adding after the item relating to section 6005 the following:

“Sec. 6006. Use of granular mine tailings.”

### **ORDER OF BUSINESS**

Mr. FRIST. Mr. President, I will be making a couple statements before we wrap up for this week and for this period of 5 weeks before the recess. But I do want to speak on two issues that are important. I want to state and restate some of the events of the last several days, the last several weeks, before leaving for this recess.

### **COMMENDING SECRETARY RUMSFELD**

Mr. FRIST. Mr. President, first of all, I want to make some comments on the issue of the Abu Ghraib abuses and the role of Secretary Rumsfeld and some of the statements that he has made, but also the tremendous leadership he has given over the last several weeks in what have been very difficult times for us as a nation, as we have witnessed, through both report and visual images, the occurrences that happened at Abu Ghraib prison.

First and foremost, I thank the Secretary for, ever since these abuses became apparent, being available to us in the Senate, the appropriate committees, and providing the appropriate resources and personnel to keep us informed of the abuses, the response to the abuses, and the many investigations that are underway.

Yesterday, Secretary Rumsfeld came to the Capitol for an all-Senators briefing on Iraq, and with him were a number of the generals and other men and women in our Armed Forces to help us better understand the events as they have unfolded over the last several weeks and months. The Secretary, as always, was forthright and direct and complete, sharing with us everything that was known, and being very clear that there is, at any point in time, a lot that is not known that will hopefully soon be known.

He addressed a whole range of issues, in particular our efforts to secure peace, to fight boldly in this war on terror, and also shared with us his views, his observations, on the Army's investigation of the Abu Ghraib abuses. He reiterated again and again his absolute commitment to thorough and complete and timely investigations. For that, we thank him.

Secretary Rumsfeld has appointed, also, an independent panel to review allegations of abuse at the DOD detention facilities. This particular panel will also review other matters related to detention operations. The panel consists of four individuals who have been involved in public service in the past. I believe all those names have been announced publicly. These experts will provide an independent and professional analysis to the Secretary, and they will make recommendations to address any problems they identify. I had the opportunity to talk to several members of this panel, and I look forward to their report and bringing together many of the other reports that are currently underway.

Secretary Rumsfeld has made it very clear that all DOD, Department of Defense, agencies and the military services will be cooperating with this panel. The panel was to begin its work on May 20 and will report its findings in early July. That report will be shared with all of us in the Senate and throughout the Defense Department.

As I said, Secretary Rumsfeld is displaying tremendous leadership. He is devoting, rightly so, a huge amount of time and resources to make sure that we, the American people, and the world get all the facts; that everything is transparent; that those people who are guilty are brought both to trial and punished appropriately. That is the American way. He made it clear that he is seeing that that is being done.

He is committed to preventing such abuses and such incidents from ever happening in the future. I know the Secretary's resolve, and he has expressed that to the Senate.

Secretary Rumsfeld has proven himself over and over again, through a long and distinguished career, to be a man of great integrity and results. We, as a nation, express our gratitude to him.

These are difficult times for all Americans. The abuses at the Abu Ghraib prison continue to shock us—the photographs, the fact that such incidents, that we would have never thought possible, actually did occur. For some, the ugly behavior of a few made them question our overall mission in Iraq and fighting this war on terror. But while all this is going on we should not lose hope, we cannot lose hope, and we must not lose sight of that big picture.

The vast majority of our troops—and, again, over 130,000 men and women are fighting for us overseas right now—the overwhelming majority of those troops are serving us each and every day with courage and with honor, of which we are all very proud. And we need to send that message to our troops. We do not say it nearly enough. And now is the time for us to do so, when the world is focused so much on the abuses, terrible abuses, caused by these very few people.

The men and women overseas, every day, are improving the lives of Iraqis, of citizens throughout that country. They are bringing freedom. They are fighting for freedom. They are sacrificing for the freedom of the Iraqi people who have lived under merciless tyranny over the last several decades. By doing all this, our troops are there defending our security so we can live in this great country, enjoying the freedoms and democracy that maybe all too often we take for granted, but in these times we simply cannot. And that gratitude we express to those men and women who are overseas right now fighting for us with boldness and courage and integrity and unselfishness.

I implied that elemental point of defending our security. Every day we see the pictures of the terrible abuses. We

need to recognize that all this effort that our U.S. Government and the American people are directing is to defend our security. That is an elemental point that we need to keep coming back to. We are fighting a shadowy enemy that seeks nothing less—their goal is to have destruction of our way of life, of the freedoms that we enjoy.

They take pleasure in wanton murder. They hide behind innocents and then slaughter them. They do so without hesitation. We can see the character of our enemy in the brutal slaughter last week of Nicholas Berg.

We saw it in the slaughter of Daniel Pearl, and we saw it in the slaughter of 3,000 innocent people on September 11 in this country.

As our President reminds us, we did not ask for this conflict. The war was brought to our doorstep. The battle against terror will last for years, and we all know that. That is the new reality. It may last for decades, but fight we must. It is a war we cannot afford to lose, and it is a war that we will win.

To his credit, Secretary Rumsfeld has shown vision and resolve in preparing us against these new threats. At the very beginning of the administration, Secretary Rumsfeld resaw the need to modernize our military. From focusing at the time on what was an outdated cold war strategy to now this current era of adjusting to new threats, which are posed by terrorism, to be able to address issues as we did in the Senate this week on bioterrorism, using viruses and bacteria and microorganisms that know no boundaries or borders and can spread rapidly—this is the new reality. He recognized that not all future threats to America will come from enemy soldiers in uniform. And before he became Secretary of Defense, he chaired a commission that identified the growing danger of a missile strike against the homeland.

Secretary Rumsfeld has been a strong and innovative leader. He has done a tremendous job in preparing our military for successful operations in Iraq and Afghanistan, and we are grateful for the tremendous service he demonstrates every day. America is, indeed, fortunate to have such an exceptional Secretary of Defense in these times of crisis. Every day he is on the job, he is helping to make America safer and more secure.

#### LEGISLATIVE PROGRESS

Mr. FRIST. Mr. President, before closing, I want to mention several things that have occurred over the past several weeks on a different topic. We are an evenly divided body in the Senate, and people say they haven't seen more partisanship ever in their lives than over the last several years. I know that is true, but at the same time all of us, both sides of the aisle, recognize we were sent here to govern and to serve the national interest.

As we prepare to enter into our weeklong Memorial Day recess, very

quickly I want to look back and share what progress we have made. Two days ago we passed Project Bioshield. It was supported by 99 Senators with a resounding yes. Project Bioshield, proposed by the President in his 2003 State of the Union Address, is comprehensive legislation that encourages research and encourages the development of new cutting-edge countermeasures to fight biological terrorism, chemical warfare, terrorism used with radiological or nuclear weapons. It is critical to our national security. This body came together and 2 days ago passed this important piece of legislation.

We also passed the JOBS bill which will protect more than 1 million high-quality manufacturing jobs in the United States. It cut taxes, a Euro tax that was going up at \$40 million a month in this country on 100 American-made products.

Last week we passed, in terms of education, the Individuals with Disabilities Education Act. That special education bill refocuses our Federal law on outcomes for disabled children. It affects over 6.5 million children in this country and well over 400,000 special education teachers.

In the field of taxation and technology, we passed an Internet access tax moratorium extension which makes sure that we will be able to continue to access and promote broadband technologies. We are going to conference on the bill. We had agreement last week, actually last night, to go to the highway bill with the appointment of conferees. We have been able in the past week to come to an accommodation on the appointment of the President's judicial nominations.

We confirmed the nomination of Marcia Cooke. We confirmed John Negroponte to become American Ambassador to Iraq. The Senate has been productive, and I thank my colleagues for their hard work and cooperation.

When we return following Memorial Day we will go straight to class action reform. We will also return to the Department of Defense reauthorization.

We have a lot more to do, and I look forward to working with my colleagues in a productive, collaborative way as we move forward.

#### CLASS ACTION FAIRNESS ACT OF 2004—MOTION TO PROCEED

Mr. FRIST. Mr. President, earlier today the chairman and ranking member of the Armed Services Committee were here to make further progress on the Department of Defense authorization bill. We have adopted a number of amendments that have been cleared. However, we have been unable to vote on the pending amendment which was offered by Senator GRAHAM of South Carolina. In addition, Senator WARNER has been unable to secure an agreement for a filing deadline or an amendment list. We have a list of possible Republican amendments. However, there is an objection on the Democratic side of the aisle to limiting amendments.

Further, many weeks ago we scheduled the class action legislation for when the Senate returns from the upcoming recess. I would add that the class action bill does have strong bipartisan support, and we would like to finish that bill in a reasonable period of time. I believe we can, indeed, do just that. I had hoped we would have been able to proceed to that bill by consent, but again there is an objection to proceeding to the class action bill.

I want to reiterate that we are going to finish the Defense authorization bill. It is a critical bill, an important bill. It is a bill we have made progress on this week. We need to lock in an amendment list on this legislation, the Defense authorization, to allow our managers to work with Senators on their respective amendments and to make continued progress. This is a vital piece of legislation, and we will return to the bill.

My intention is to go to the class action bill and then return to the Defense authorization bill.

Thus, I now ask unanimous consent that at 2:15 on Tuesday, June 1, the Senate proceed to the consideration of Calendar No. 430, S. 2062, the class action bill.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object, Mr. President, we are very disappointed that the distinguished majority leader is going to file cloture on this matter. We have said on more than one occasion we are willing to work toward completion of the Defense bill. We cooperated this week. We told the manager of the bill, both Senator LEVIN and I, let's go off of the Lindsey Graham amendment. We will agree to a 2-hour limitation of time when we come back next Tuesday to dispose of that and the Cantwell amendment that she would have offered. But that wasn't to be done. We indicated at that time that we would waste a lot of time.

We had a bipartisan amendment by Senator DASCHLE and Senator LINDSEY GRAHAM on TRICARE that would have moved forward. We had one that Senator KENNEDY had on the reporting. We were standing by with a number of amendments ready to go.

I would also say to the distinguished majority leader, we have supplied to the two managers of the bill our amendments, as Republicans have supplied amendments. There are about 100 amendments. They cleared a number this morning. They have cleared amendments in the past. I would also say that we take about 10 days on this bill normally. We don't think this bill will take that much time. We believe that when we come back, we would be in a position at that time, maybe not on Tuesday but by Wednesday, enter into an agreement as to a list of amendments. It is difficult to have our Members do this with a 10-day break because we don't know if there is going to be another Chalabi problem. We don't know if there is going to be another problem dealing with a prison.