

happen to think Amtrak is critically important as a part of our transportation system.

Every other form of transportation is subsidized. We have people saying: Let's not subsidize Amtrak. Why not? Every other country in the world provides a subsidy for their rail passenger service. I think our country is justified in doing so to keep that rail passenger service working.

The Secretary of Transportation has a plan that would virtually destroy Amtrak as we know it. He says: Let's take the Northeast corridor out, Boston to Washington, DC, and separate it from the rest. That is a sure-fire way to kill the rest of Amtrak service for the country. It is a huge step backwards; that is not progress.

We must ask the Secretary and the administration not only to announce Wednesday that there is financing to have Amtrak continue, but also to work with those of us in Congress who want to ensure the long-term future of rail passenger service.

#### TRADE DEFICITS

Mr. DORGAN. Madam President, last Wednesday the Commerce Department reported that the monthly trade deficit for April 2002 was \$35.5 billion. That deficit is for both goods and services. The deficit in goods alone was \$39.9 billion.

Every single day, 7 days a week, we import \$1 billion more in goods than we export, and we charge the difference. What does that mean on an annual basis? Deficits on the order of \$400 billion dollars, and climbing.

As you can see in this chart, the trade deficit is totally out of control. In fact, when we try to put in the 2002 numbers, we will be somewhere off the chart, around \$480 billion.

These trade deficits are to a large extent the result of bad trade agreements, particularly those entered into under fast-track authority. This Senate, without my vote, just embraced fast-track trade authority so that the President can negotiate another trade agreement. I didn't believe President Clinton should have that trade authority, and I don't believe this President should either.

This next chart shows the increases in trade deficits as we entered into one bad trade agreement after another. You see what has happened since 1976. The deficit line goes up, up, up, and up—the highest trade deficits in human history.

Nobody seems to think much of it. You didn't hear one whisper last Wednesday when it was announced we had the largest monthly trade deficit in the history of this country.

Where are all the exports that we were promised as a result of fast-track trade agreements? Do you know what our number one export item has become? American jobs. That is the biggest export as a result of the trade agreements. You can see from the

trade deficits we have that these trade agreements simply aren't working.

Who pays these deficits? The American people have to pay for these deficits at some point. You can make the case with respect to budget deficits that it is money we owe to ourselves. You can't make that case with the trade deficit. The trade deficit we owe to others, to people living in other countries. We will pay trade deficits with a lower standard of living. That is why it is so dangerous.

Today, as I speak, the financial markets are very unsettled. Day after day after day, we see a further collapse of the stock market, the financial markets.

Why is that the case? Because there is a sense that our fundamentals don't work. We are deep in red ink, drowning in trade deficits, and nobody here seems to give a darn at all. It is dangerous for our country.

Our negotiators go overseas and negotiate a trade deal, and in an instant they lose. I have said it 100 times, but it is worth saying again, in the words of Will Rogers: the United States of America has never lost a war and never won a conference. He must surely have been thinking about our trade negotiators.

We have bad agreements in 100 different ways: Bad agreements with China, with Japan, South Korea, Europe, and others. With Europe we have a dispute over market access for U.S. beef. The EU does not let in our beef when the cattle have been fed hormones, even though there is no evidence to support this ban. So we take the EU to the WTO, and we argue that we are entitled to sell our beef in Europe. The WTO agrees, and tells the EU to let our beef into their market. And the EU just thumbs its nose, and says forget it.

So we say: All right, we are going to get tough, and retaliate against you. And how does the United States get tough? We say: We will slap you with penalties on truffles, goose liver, and Roquefort cheese. That is enough to put the fear of God into almost any country.

Well, when Europe wants to retaliate against our country over a trade dispute, as they did in the case of U.S. tariffs against European steel, Europe goes after hundreds of millions of dollars of U.S. steel, textiles, and citrus products. We, on the other hand, are retaliating by saying: We will nail you on truffles, goose liver, and Roquefort cheese.

I am sorry, but where is our backbone? Does this country have any guts to stand up for its producers and its workers?

So last month, we had the largest monthly trade deficit in human history. Does anybody here care? I think eventually we will have to reconcile for this failure in policy. It is not just a failure with this administration—although this administration certainly has played a part—it is a failure of past

administrations and every administration going back 20, 30 years. They have embraced policies that have us in a situation where we have long-term, relentless deficits with the Japanese, \$60 billion, \$70 billion a year every single year with Japan. And 14 years after we had a beef agreement with Japan, there is a 38.5 percent tariff on every pound of beef going into Japan.

I mentioned the Japanese beef agreement, which was described as a big success by those who negotiated. Yet, 12 and 14 years later, we have this huge tariff on every pound of American beef going into Japan. Nobody says much about it. We have a large trade deficit with Japan.

We have 630,000 cars coming here from Korea every year. We are able to ship them only 2,800. When you raise that issue, and point out that they are shipping us 630,000 Korean cars into the American marketplace and allowing only 2,800 American cars into Korea, they say: yes, but your exports used to be 1,300 cars and now they have doubled. So if you hear trade negotiators talk and they say "we doubled the amount of American cars we shipped to Korea"—well, yes, from 1,300 to 2,800. But the Koreans send us 630,000 in a year.

Our trade policies are failing badly. Nobody seems to care much about it. There is not a whisper about this huge trade deficit on the floor of the Senate—just following the Senate agreeing to extend fast track trade authority to the President.

Because the time is limited, and we are going to the defense authorization bill, I will defer a longer speech on international trade to a later time. But Mr. President, it is fascinating to me that last Thursday we heard the announcement of the largest trade deficit in history, and you could not hear a voice in this town raise a point that this is a serious problem for this country's economy. It is long past the time to have a real debate about our country's trade policies and about these growing, relentless trade deficits that cause great danger to the American economy.

I yield the floor.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. NELSON of Nebraska). Morning business is closed.

#### NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2003

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 2514, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2514) to authorize appropriations for fiscal year 2003 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 Forces, and for other purposes.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, we made some very good progress on the national Defense authorization bill last week, and I am optimistic, with the continuing good help that is always available from our leadership and the cooperation of Senators, that we can complete action on this bill in a timely manner this week.

We debated the bill for over 18 hours last week, and we disposed of 29 amendments. We still have some amendments that will require debate and rollcall votes, and we will be working with the sponsors of those amendments to try to get them before the Senate as promptly as possible.

We were able to clear a number of amendments last week. We have a package of cleared amendments. I am looking at my good friend from Virginia. He is nodding his head, so we believe we can act on a number of cleared amendments later today.

We expect to move shortly to an amendment from the Senator from New Hampshire and the Senator from Minnesota prohibiting the chain of command from requiring female servicemembers to wear an abaya in Saudi Arabia. We are going to vote on that amendment. It is currently planned at approximately 5:45 p.m.

Following the disposition of that amendment, it is our hope that we can have another amendment offered for debate and schedule a vote for sometime tomorrow morning.

Finally, I note that the Defense Department and the Nation lost a great public servant this weekend. Doc Cooke, whose official title was Director of Administration and Management, but who was more widely and affectionately known as the mayor of the Pentagon, passed away on Saturday following an automobile accident several weeks ago.

There was no one more dedicated to the people of the Department of Defense than Doc Cooke. He will be greatly missed. Our thoughts and our prayers are with his family.

I know my good friend and colleague from Virginia also knew Doc Cooke a lot better than I did, and I am sure he will want to add a few words.

Mr. WARNER. Mr. President, I thank my good friend. I remember him with the warmest regard and respect. I will get for the record the number of Secretaries of Defense under whom he was privileged to serve, but it is somewhere in the seven to eight number. He was affectionately known as the mayor of the Department of Defense.

Mind you now, this is a building that was built in the late thirties and early forties, the thought being it might be used as a hospital for heavy casualties if we ever incurred them. Then it was quickly transformed into the Department of Defense. It is vast. Some 25,000

individuals are at work at any one time either in the building or the environs. He knew every square foot of that building. He knew it well.

I remember one time, I made a very foolish decision—perhaps I made several when I was Secretary of the Navy—when I decided to visit the office which every sailor and marine occupied. It took me 1 year to cover the building. I was forewarned that I had made an ill-advised decision. It was interesting. Doc Cooke helped me plot that, as he did many other projects.

He was behind the restoring of the building the day the tragic accident befell the men and women who worked in certain spaces on 9-11. He spearheaded that effort, together with the Secretary of Defense, such that all the schedules for completion are being met. That is the type of man he was. He was very humble and very soft spoken.

He had an unfortunate accident on the way to give a speech in Charlottesville. He did not recover from his injuries. His car simply went off the road, which indicates possibly he was afflicted by some illness and lost control. No one else was injured. We are thankful for that.

I thank my good friend and colleague because those of us who were privileged to serve in that building, as I did for over 5 years, remember well Doc Cooke.

Mr. President, turning to the bill, I thank the chairman for his estimate. I join him in saying we made progress last week. Our leadership not only challenged us but I think has given us a set of orders to finish this week. There is every reason we can do that, and do it in a way to allow Senators to bring forth their amendments to the bill and to have a reasonable period for debate.

Fortunately, we have in place an understanding with the leadership that the chairman and I will make the determination as to relevancy of amendments. Primarily the rule that governs the Parliamentarian as to whether or not a bill is referred to a committee is the guidepost we will follow, but we will consult together on these issues.

We are now awaiting the distinguished Senator from New Hampshire. I am told he is on his way.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. REID. Has Senator SMITH offered his amendment?

The PRESIDING OFFICER. Not yet.

Mr. REID. Mr. President, I ask unanimous consent that following Senator SMITH's offering of his amendment, which will be momentarily, the time until 5:45 p.m. today be equally divided

and controlled in the usual form, with respect to the Smith amendment, with no second-degree amendment in order prior to a vote in relation to the amendment, but at 5:45 p.m., without intervening action or debate, the Senate vote in relation to the amendment.

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

AMENDMENT NO. 3969

Mr. SMITH of New Hampshire. Mr. President, I send an amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. SMITH], for himself, Ms. CANTWELL, Mr. GRASSLEY, Mr. DAYTON, Mr. REED, Mr. CRAIG, Ms. LANDRIEU, Mr. HARKIN, and Mrs. BOXER, proposes an amendment numbered 3969.

Mr. SMITH of New Hampshire. I ask unanimous consent reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To impose certain prohibitions and requirements relating to the wearing of abayas by members of the Armed Forces in Saudi Arabia)

On page 125, between lines 13 and 14, insert the following:

**SEC. 554. WEAR OF ABAYAS BY FEMALE MEMBERS OF THE ARMED FORCES IN SAUDI ARABIA.**

(a) PROHIBITIONS RELATING TO WEAR OF ABAYAS.—No member of the Armed Forces having authority over a member of the Armed Forces and no officer or employee of the United States having authority over a member of the Armed Forces may—

(1) require or encourage that member to wear the abaya garment or any part of the abaya garment while the member is in the Kingdom of Saudi Arabia pursuant to a permanent change of station or orders for temporary duty; or

(2) take any adverse action, whether formal or informal, against the member for choosing not to wear the abaya garment or any part of the abaya garment while the member is in the Kingdom of Saudi Arabia pursuant to a permanent change of station or orders for temporary duty.

(b) INSTRUCTION.—The Secretary of Defense shall provide each female member of the Armed Forces ordered to a permanent change of station or temporary duty in the Kingdom of Saudi Arabia with instructions regarding the prohibitions in subsection (a) immediately upon the arrival of the member at a United States military installation within the Kingdom of Saudi Arabia. The instructions shall be presented orally and in writing. The written instruction shall include the full text of this section.

(2) In carrying out paragraph (1), the Secretary shall act through the Commander in Chief, United States Central Command and Joint Task Force Southwest Asia, and the commanders of the Army, Navy, Air Force, and Marine Corps components of the United States Central Command and Joint Task Force Southwest Asia.

(c) PROHIBITION ON USE OF FUNDS FOR PROCUREMENT OF ABAYAS.—Funds appropriated or otherwise made available to the Department of Defense may not be used to procure abayas for regular or routine issuance to members of the Armed Forces serving in the Kingdom of Saudi Arabia or for any personnel of contractors accompanying the

Armed Forces in the Kingdom of Saudi Arabia in the performance of contracts entered into with such contractors by the United States.

Mr. SMITH of New Hampshire. Mr. President, I offer this amendment today, an amendment to the Defense bill, along with Senators CANTWELL, GRASSLEY, DAYTON, REED, CRAIG, LANDRIEU, HARKIN, and BOXER, to rectify a DOD policy that is, frankly, unfair, inequitable, inexplicable, and which violates our basic values and beliefs as a nation that believes in freedom of expression and freedom of religion.

We are seeking to eliminate the abaya policy still being imposed upon our female soldiers in Saudi Arabia. For those who do not know what this is, the abaya outfit covers, from head to toe, the person wearing it, and this abaya covers the entire military uniform of female officers who serve in Saudi Arabia. This policy is unfair, and it is inexplicable.

More than a year ago, I wrote to Secretary Rumsfeld, along with four of my colleagues: Senators HELMS, CRAIG, NICKLES, and COLLINS, and I asked for an explanation from the Department of Defense regarding the abaya mandate upon females stationed in Saudi Arabia. We received interim responses to the letter but never a substantive reply. Finally, the letter was bucked down to General Shelton and then to General Franks. I wrote a second letter to Deputy Secretary Paul Wolfowitz many weeks after our first letter went unanswered.

Eventually, we discovered the reason we never received a reply. Frankly, it was too hard for anyone to defend the policy. Everyone was so surprised when they got the letter. They could not understand where this policy came from, why it would be implemented to the effect that a military officer, on duty, would be forced to cover her uniform, the uniform of the United States of America, when on official duty.

How in the world could anyone justify that, as if they were ashamed of the uniform and had to cover it up? So we could not get an answer. That is the bottom line.

I received a letter from a man who lived in Saudi Arabia for 19 years who agreed with my position regarding the abaya. So I asked Paul Wolfowitz essentially what this man asked me: Can we not instruct our officers in avoiding harassment and help preserve our hard-fought freedoms and not make them subject to police state tactics? Isn't that possible?

On September 11, as we all know, the United States was attacked. Shortly thereafter, our Armed Forces began their operations in Afghanistan. After the Taliban and al-Qaida forces were in retreat, Afghan women joyfully—you can remember the press reports—began shedding their burqas, the head-to-toe gowns women were made to wear by the brutal Taliban regime. I think we can all remember those vivid pictures

that began to crop up in the papers and in the magazines, showing women peeking out through these burqas and finally beginning to have the freedom of expression they so deserved. It was a very warm moment to see that, and a very touching moment.

U.S. reporters began to question, now, the Department of Defense, about how we could justify celebrating the victory over the repressive Taliban which the burqa symbolized, yet at the same time require our own American women in uniform to wear the Saudi equivalent of the burqa, which is the abaya. We just liberated the women in Afghanistan so they could remove the burqa if they so wished. Now, by the same token, at the same time, we are implementing—holding onto a policy which forces American women officers, officers of the U.S. military, to cover their uniform while on official duty.

I must say, when I first heard this, I did not believe it. I was told this by an individual I will talk about later, and I said I didn't believe it. I said: I will have to check into this because I don't believe this is happening. But I found out it was true.

The Department had a hard time answering this glaring contradiction, and in fact they did not offer any reasonable explanation.

White House counselor Karen Hughes was presented with an Afghan burqa when Bush administration aides came back from the trip to Afghanistan. Apparently—I wasn't there, but based on reports—she put it on. Everyone was amused when Karen put the burqa on and began to ask about it, wondering how the Secret Service would react if she walked into the Oval Office with one on. But Karen Hughes is one of the administration representatives in favor of the rights of Afghan women. The First Lady herself spoke out against this appalling mistreatment of women by the Taliban. So undoubtedly Karen Hughes's burqa episode may have seemed somewhat amusing. But it certainly was not a laughing matter to Karen Hughes, who spoke out very strongly in favor of the rights of Afghan women.

It is not a laughing matter that hundreds of United States female soldiers are subjected to wearing the Saudi variant of the burqa, the abaya.

In a State Department publication, "The Taliban's War Against Women," there is this quotation about the burqa. Here is the quote about the burqa:

The fate of women in Afghanistan is infamous and intolerable. The burqa that imprisons them is a cloth prison, but it is above all a moral prison. The torture imposed upon little girls who dared to show their ankles or their polished nails is appalling. It is unacceptable and unsupportable.

That is the State Department. That is not my quote, that is a quote issued by the State Department.

In the quotation from King Mohamed VI of Morocco, just substitute the word "burqa" for "abaya" and consider we

are doing this to our women. After we cheered the liberation of Afghan women, after the fall of the Taliban, we are now doing this to our women in Saudi Arabia.

With all due respect, if you cannot defend a policy, you probably ought to change it. This really doesn't require a lot of thought. If you can't defend it, it probably should be changed. The Secretary of Defense, I am very pleased to say, did eventually repeal the abaya mandate.

However, that is the good news. Regrettably, that repeal, which I believe was meant in good faith, was then circumvented at lower levels. In other words, the Secretary said let's repeal it, but when it went down to the command level, nothing happened, and women were still being forced to wear the abaya. So basically the decision to repeal it was ignored. I can't think of a nicer way to say it. Female soldiers in Saudi Arabia are now essentially coerced into wearing Muslim garb by being warned they will endanger their fellow comrades if they do not wear it. They are now strongly encouraged to wear this Muslim robe.

That is the exact language that is used in the command directive: Women are "strongly encouraged" to wear this Muslim robe.

To a young soldier—those of you who have been in the military, as I have, understand this—when you are strongly encouraged to do something by your superiors, and you are in uniform, you do it. It is no different from a direct order. It is essentially the same thing. So the mandate is gone, but women are still being forced to wear abayas.

It is incredible to think that a woman in a military uniform has to cover that uniform up with an abaya, and that is a directive at the command level of the U.S. military. It really is incredible to me that we have to be here on the Senate floor to correct this into law because, frankly, it is a stupid rule. It ought to be eliminated. It should not have to be done here on the Senate floor.

I tried every way for months not to be here on the Senate floor to do this. I tried, but I could not get it done because it is still there. I have yet to meet a man or a woman who has served in Saudi Arabia in the military who agrees with this policy. I have yet to meet anybody who agrees with the policy, whether they served or not. So repeal of the mandate may have helped the Department of Defense in terms of public relations, and legally because of the lawsuit brought—reluctantly, I might add—by Air Force COL Martha McSally, who fought for 6 years within the system to overturn this policy and first publicized the injustice of this policy last year.

Here is an exemplary officer who fought for 6 years quietly to try to remove this, to say it was wrong. The essence of her message is this: I am a Christian. I don't want to wear an

abaya. I want to wear my uniform. I want to do what everybody else does, on duty and off. If I want to wear my uniform, I wear it. If I want to wear civilian clothes, I wear civilian clothes. I don't want to wear an abaya.

Yet she was forced to do it. She tried for several years to get it corrected, but to no avail. She was basically ignored.

Whoever brings this type of issue up, the so-called whistleblower, right away people say there must be something wrong with her; she is not a good officer; she has some agenda; she is a women's rights advocate, or whatever—things like that are spread around. Let me tell you about her.

She is an Air Force Academy graduate. She was selected twice before her time to get an increase in rank. She was an A-10 pilot with 100 hours in the no-fly zone over Iraq and a devout Christian. She said in her interview she believes strongly that wearing the abaya violates her faith. Since when are we in the business of telling a military officer that she has to wear something that violates her faith and covers up her own uniform?

McSally's research on the issue showed that the policy was originally justified—here is the justification for the policy: "Host nation sensitivities." Worries about offending the Saudis—offending the Saudis whom we saved from Saddam Hussein. They would all be buying oil from Saddam, while they sat in England someplace unless we had defended them. Now we are worried about their sensitivities, telling a military officer of the U.S. Army or Air Force or whatever that they can't wear their uniform proudly and show it off. They have to cover it up. That just doesn't cut it.

The issue showed that the policy was originally justified as "host nation sensitivities." Then it was later changed to "force protection" after the Khobar Towers were bombed. Neither action makes sense.

Let me say that again.

First, it was "host nation sensitivities." When that didn't work, it became obvious that there was no justification for that. After the Khobar Towers were attacked, then we changed it to "force protection."

In other words, we have to protect our troops. And because McSally, or anybody else, may not wear the abaya and show off her uniform, it would infuriate some Saudi citizen. And, therefore, because our military are walking around in Saudi Arabia somewhere on duty or off duty, some Saudi citizen might be offended and take some action to harm other military people as well.

McSally eloquently and courageously exposed the absurdity of the justifications of this abaya edict. In doing so, she may—the word "may" is the action word here—have harmed her stellar military career.

In these fitness reports of officers, there are certain little action phrases

that have to be put in there for you to get promoted. If they are not there, you get the message. Those of us in the military know all of that.

If her career is ruined, it would be a stain on the U.S. Air Force that will never go away. If Colonel McSally is somehow getting any type of retribution—implied, indirect, or direct of not getting a promotion, or not getting a command—if that happens—I am not saying it is going to happen. I am not accusing anybody of it happening. But I am saying, if it does, I would say to the Air Force, it is a stain on the Air Force that is going to take a long, long time to clean.

Women in Saudi Arabia have to have male escorts. American women wearing abayas are in the company of American males. Typically, they are military males with crewcuts and collared shirts. If an officer junior to McSally—a male—is walking down the streets of Saudi Arabia in a crewcut with an open-collared shirt and a pair of khakis, the officer who is superior to the man has to cover her entire uniform with an abaya, and can't wear civvies at that.

I am going to tell you, that is not right. You do not have to be very smart to figure out that it isn't right.

American men are prohibited from wearing Muslim garb. These women in abayas are Americans. It is obvious they are Americans. Why would a guy in a crewcut, who is obviously a marine, or an Air Force officer, be walking down the street with a woman in an abaya? There is no secret here. That doesn't constitute "force protection."

The whole argument is ridiculous. It is certainly not going to fool any terrorist, if that is the rationale.

Remember this: People do not want to wear these. They are willing to take any risk, if there is such risk, not to have to wear the abaya.

Let me consider for a moment what "host sensitivity" means. It was the original justification for the abaya policy. Does it mean we are going to subject our women to the same conditions that the Saudis set for theirs? Will we eventually be making any American female servicemember who deploys to Afghanistan wear a burqa?

I visited Afghanistan. We landed in a snowstorm and reviewed the American military who were there. Men and women were standing in a snowstorm waiting for our plane to land. Senator DASCHLE was there. Several of my colleagues were there. They were wearing their uniforms. Frankly, they looked pretty doggone good in them.

Not one of those women had to wear a burqa or an abaya because they happened to be in Afghanistan. It is so ridiculous it is not even worth the breath it takes to talk about it.

Yet we have to talk about it right here on the floor of the Senate because some bullheaded person down there in the command wouldn't change it. That is the reason we are here. It is the only reason we are here.

I have heard some justify this practice as, well, when you are in Rome, do as the Romans do. They are mistaking minor cultural norms, such as not showing the bottoms of one's feet, or removing your shoes at the door, for example, which is customary in Japan before entering a home, with something entirely different and far more important. This is the U.S. military officer's uniform.

It is not about harmless customs. Rather, it is about our fundamental values—religious freedom based on the first amendment. And it is about gender discrimination. That is what this is. It is gender discrimination. And it is a violation of the first amendment. It goes against every rule we have in the military about showing off our uniforms and being proud to wear them.

The Saudis certainly don't believe in "When in Rome, do as the Romans do." Let me give you an example.

The Dallas Morning News reported that Crown Prince Abdullah asked women to be barred from air traffic control duties when he traveled to Texas to meet with President Bush. So much for reciprocal "host nation sensitivities."

Can you imagine that? Crown Prince Abdullah asked that women in our air traffic control towers be barred from those towers when he traveled to Texas to meet the President of the United States.

Don't tell me about reciprocal "host nation sensitivities."

I have also heard some say the burqa is just plain clothing; it just represents culture; that it is like the Indian sari.

That is not true.

A Washington Times article on Saudi authorities seizing women's robes points out this fallacy. The Washington Times' story said the Saudi Ministry of Commerce confiscated 82,000 gowns from stores and factories after inspection showed they were not in conformance with Islamic law. I repeat, in conformance with Islamic law. The abayas were not plain and opaque, but rather were determined to be "provocatively clinging," or too highly decorated, or too revealing.

Are our DOD officials going to be asking the Saudi Ministry of Commerce to determine whether our issued abayas are in conformance with Islamic law? Do we consult with the Saudi Committee for Preservation of Morality and Prevention of Vice—the morality police—on the appropriateness of our abaya purchases for our female soldiers? We are paying for them. We are buying these abayas with U.S. taxpayer dollars.

Let me provide a short history of this mandate. It surfaced somewhere in 1992, 1994, or 1995. There was never an abaya mandate during Desert Storm—never an abaya mandate during Desert Storm when we had 500,000 troops in the gulf. General Schwarzkopf never

ordered our women to wear abayas during the gulf crisis, nor were they ordered not to drive cars, which is another order given to American military women.

Let us consider the contradictions. Women in the military in Saudi Arabia are forced to wear the abaya by a local U.S. command decision. State Department women are not under any abaya mandate. If you are working for the State Department, or if you are the wife of an Ambassador, whatever, there is no abaya mandate for you. Wives of military attaches, there is no abaya mandate. Even the Saudi Government never mandated the wearing of an abaya for non-Muslim women. I can't find it anywhere. If somebody can find it, show me, because I can't find it. No such mandate.

We are choosing to say that American military officers—outstanding U.S. military officers—have to wear an abaya to cover the uniform that they wear with pride. You and I—or anyone who knows anything about the military—know that the two things military officers like to show off are their fitness, because they work hard at being in shape, and their uniforms. Yet they are forced to cover up.

Colonel McSally explained that this is an indignity and an outrage we have perpetrated upon ourselves. We did this. The Saudis did not do this. The U.S. command did this. We are eventually making our women more vulnerable to harassment by making them wear an abaya.

Imagine the ridicule and the jokes that must occur back on the base and the insults these women have to take from colleagues over this. When a woman puts one on, she immediately places herself under the jurisdiction of the dreaded mutawa. You know who they are. In Saudi Arabia, they are the religious police.

The U.S. Embassy in Saudi Arabia points this out when it states that with regard to “force protection,” that “even with the abaya and scarf, harassment still occurs.”

The Embassy's policy is sound and reasonable compared to DOD's. It says, “The Embassy will support a woman in whatever personal choice she makes on the issue of not wearing an abaya or head scarf.”

That is the Embassy policy.

The State Department, unlike DOD, trusts women to make these decisions of their own accord and judgment. So the State Department says: You make the choice. If you want to wear an abaya, wear it. But the DOD says you have to wear it.

Let me tell you a little bit about the mutawa. One press report I found was of a female soldier harassed in Saudi Arabia because she was wearing an abaya. The religious police ordered her to cover her head, rapping a cane against the wall beside her head. This, again, proves the point that an abaya puts you at risk of harassment from the mutawa.

They knew she was an officer so they harassed her. They knew she was a soldier, because she was walking with some guy wearing Bermuda shorts who had a crewcut. They knew he was an officer in the military, and they knew she was, too. So they chose to harass her.

DOD women are instructed to carry the veil. Imagine, this is DOD women instructed to carry the veil, and told to put it on immediately if they are confronted by a “local.” This, again, makes my case that women are subject to harassment for wearing an abaya and more likely to be left alone if they are dressed in other garb, tourist clothing, or their uniform.

Tourists are not required to wear abayas. The Saudis only encourage tourists to wear conservative western dress. Forcing a female soldier to wear an abaya actually identifies her as an American. If she were wearing conservative attire, she would blend in with other tourists, and there would be nothing said about it.

One other story about the mutawa. My colleagues should be aware of this story. The mutawa are the religious police in Saudi Arabia. They recently caused the death of 15 school girls in Saudi Arabia. These were Saudi girls. These school girls—here is what they did wrong—they were trying to flee their burning school. They were trying to flee their burning school, but because they were not suitably attired—they did not have their full abaya garb on—they were forced back into the flames by the religious police. Do you know what? Not one major news organization in our country carried the story front page, that I know of. I will stand corrected if somebody can produce one. It is a shocking incident. They forced the deaths of 15 girls because they were trying to run out of a burning building, their school, and did not have their abayas on. That is the mutawa. Those are the people who are harassing our military personnel when they are forced to wear these abayas.

Yet consider the fact that our policy in Saudi Arabia towards our female soldiers seems to be done in deference to these religious zealots, not the ordinary Saudi or the Saudi Government. They are the same ones who recently caused the senseless deaths of these 15 young women in their own country for lack of a head scarf. Think about that. And we are going to kowtow? We are going to tell a U.S. Air Force officer—who is a decorated officer and has been promoted ahead of schedule twice, an Air Force Academy graduate, who flies over Iraq in the no-fly zone—we are going to say to her, you have to cover up your U.S. uniform because you might be harassed by somebody who did something such as this, allowing 15 school children to die because they did not have a head scarf on when trying to run out of a burning building?

They ought to be thankful, the Saudis, that they are still a country. If it had not been for us, they would be

living under Saddam right now. Our military personnel—our men and women—should not have to put up with this kind of stupidity.

Again, I am here on the Senate floor, taking my colleagues' time, to offer this amendment because we could not get the local commander to pull back from this rule, this order.

These are the same people, these self-anointed religious police, whom we seek to accommodate under the rationale of “host nation sensitivities.” I will not use profanity on the Senate floor, but “host nation sensitivities” can go straight to that place way down below as far as I am concerned. Maybe we need to have some sensitivity training for the host nation. Maybe that is the idea. Maybe that is what we should do.

I do not need to repeat that this Nation is a superpower. We ought to act like one. Our military is the envy of the world. Our men and women in uniform are proud of those uniforms, as I said before, and proud of what those uniforms stand for. We should not treat any of them—men or women—as second-class citizens, regardless of the sensitivities of the host nation.

They do not want to be treated that way. They are willing to take any risk of somebody harassing them, or whatever it is, to wear their uniform. And they have that right. They should never be asked to cover their uniform in some disgraceful attempt to hide the military uniform of the U.S. Air Force or any other branch of our military.

We deployed a half million troops in the gulf against Iraq only a little over a decade ago and suffered nearly 300 casualties to defend the sovereignty of Kuwait and to protect the Saudi Kingdom, which was directly threatened by the invasion of Kuwait by Iraqi forces. And because the mutawa wants these women to wear burqas or abayas, we are going to kowtow to that? And we can't get this repealed without coming to the Senate floor? Give me a break.

Our deployment in the gulf was pretty important. I supported going to the gulf. But it was not more important than the esprit de corps and the unity of our servicepeople in the region, nor more important than abiding by the principles fundamental to the creation of the United States of America: Religious freedom of expression, and to wear proudly the uniform of the United States of America, which millions have done.

How can you ask a military officer—an exemplary military officer—to cover up her uniform, to be ashamed of her uniform?

In 1981, an Air Force officer sued the Air Force because he wanted to wear a yarmulke, a symbol of the Jewish faith. The case went to the Supreme Court, and the officer lost. The Air Force's argument then—and I juxtapose it now to show the contradictory rationale for the abaya today—is the importance of the military uniform and uniformity itself in terms of discipline and hierarchical unity.

The Air Force's argument in the yarmulke case can be summed up thus: The considered professional judgment of the Air Force is that the traditional outfitting of personnel in standardized uniforms encourages the subordination of personal preferences and identities in favor of the overall group mission.

That is exactly right. That is the point.

Uniforms encourage a sense of hierarchical unity by tending to eliminate outward individual distinctions except for those of rank. The Air Force considers them as vital during peacetime as during war because its personnel must be ready to provide an effective defense on a moment's notice; the necessary habits of discipline and unity must be developed in advance of trouble.

Let me use, for a moment, an anecdote, a fictitious anecdote, but one that likely happened.

A person like Colonel McSally decides to drive off base on duty, in a jeep, with three other officers. First of all, according to this rule, she has to sit in the back because she is not allowed to drive the car. And the other three officers, in this fictitious example, which probably happened, are junior to her. She is the senior officer. She is forced to sit in the back. On top of that, she has to wear an abaya to cover herself up from head to foot so nobody knows she has the uniform on.

How humiliating is that? Give me one good reason anybody would support a policy like that? There is not a person in that jeep who would ever say that she should have to do that. They would be willing to take any risk that might come their way, if there were some, so that she would not have to do it. And she tried to change this for years, to no avail.

How far we have come. Martha McSally is not asking to wear publicly a cross as the symbol of her faith. She is asking not to wear a religious garment not of her faith.

She is arguing the Air Force's case when it argued against the yarmulke. She is arguing not to be wearing a badge of religious and ethnic identity. That is all she is asking.

Interestingly, the Senate disagreed with the decision by the Supreme Court that disallowed the wearing of a yarmulke. The Senate voted 55-42 for a Lautenberg amendment that would have allowed first amendment expression by permitting "neat and conservative" religious attire, but letting the DOD decide when wearing such apparel interfered with members' duties.

Many Senators still serving today voted in favor of that Lautenberg amendment.

The Reagan administration supported the Air Force, and the Senate amendment was never enacted into law.

The Senate vote was a defense of religious expression. Fifteen years later, we are facing a grievous situation where our servicewomen in Saudi Arabia are coerced into wearing religious garb in conflict with their faith and which subverts the discipline and uniformity of the U.S. military uniform.

This is intolerable, humiliating, deplorable, and it is unjustifiable. I would be happy to provide for the record the numbers of letters and phone calls I have made in the last year or so, to try to avoid coming here on the Senate floor to have this put into the legislative process—to no avail. I see it primarily as a first amendment issue in that we should not be conforming by dress to a foreign state religion. It is also an issue of gender discrimination.

Support for lifting this mandate comes from all directions—the left and the right of the political spectrum, from the Rutherford Institute, which sued the Air Force over this policy and on behalf of Lt. Col. McSally, to the National Council of Women's Organizations, an umbrella organization.

The PRESIDING OFFICER (Mr. WYDEN). The time of the Senator from New Hampshire has expired.

Mr. SMITH of New Hampshire. I didn't realize I was under a time constraint. I ask unanimous consent for 2 more minutes.

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

Mr. SMITH of New Hampshire. Support for lifting this mandate comes from both the left and right—the Rutherford Institute, which sued the Air Force on behalf of Lt. Col. McSally, to the National Council of Women's Organizations, an umbrella organization which now includes such well-known members as the League of Women Voters, the National Organization of Women, Women in Government, the YWCA, Hadassah, and the Feminist Majority Foundation. The House has already spoken, approving a similar bipartisan amendment by Representatives LANGEVIN, HOSTETTLER, and WILSON to repeal the mandate and stop the DOD from purchasing abayas. We purchase them on top of everything else. The taxpayers are paying for the abaya.

The majority leader in a front page Washington Times story on June 17 commented about the U.S. relationship with the Saudi Government:

We need to be more aggressive. We need to be even confrontational with the leadership of the Saudi government in those occasions when they're not doing enough, and when they are sponsoring this propaganda of the ilk we've . . . seen.

He was talking about fighting terrorism. The same advice should apply to the Saudis when it comes to making our female troops wear Muslim clothing. We need to stand up to the Saudis, stand up for women in the military. We also need to stand up for ourselves as a nation, stand up for our values and our beliefs.

I also note that the chairman of our Armed Services Committee made a pointed comment when the abaya issue surfaced about disrespect for female servicepeople in Saudi Arabia, and maybe we should reconsider our bases there in light of this disrespect.

I totally agree with the distinguished Senator from Michigan. I urge my colleagues to support this amendment.

To repeat the four points this amendment addresses, it says: You cannot require or encourage an abaya to be worn; No. 2, no adverse action against women who choose not to wear it; No. 3, no money to procure abayas for regular or routine issuance; and No. 4, that the Secretary of Defense provide instructions to this effect immediately upon arrival in Saudi Arabia. That is it. That is the amendment. That is what it does.

I urge my colleagues to support my amendment, and I yield the floor and thank my colleagues for their attention.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Does the Senator from Massachusetts wish to speak on this amendment?

Mr. KENNEDY. Just for a moment, if I have the opportunity to speak on another amendment as well. I will follow whatever procedure the chairman wishes.

Mr. LEVIN. Does the Senator from Vermont wish to speak on this amendment?

Mr. JEFFORDS. I wish to follow the Senator from Massachusetts on this amendment, yes.

Mr. LEVIN. On the pending amendment?

Mr. SMITH of New Hampshire. I reserve the right to object.

Mr. LEVIN. I wonder if I could ask the Chair, is there a time agreement on this amendment?

The PRESIDING OFFICER. The time was evenly divided until 5:45. The Senator from Michigan does control all of the remaining time.

Mr. LEVIN. Mr. President, I yield myself 4 minutes on this amendment. Then if no one else wishes to speak on the amendment, it will be up to the author of the amendment if he wishes to speak further. I would suggest that the time that remains between now and 5:45 then be used for other purposes, if there is nobody who wishes to speak further on this amendment. I yield myself 4 minutes on the amendment.

Mr. SMITH of New Hampshire. If the Senator will yield for a moment, I did have a couple of requests from Senators who may be here to speak. That is all. I didn't want to ignore that request. I have no objection to the Senator speaking to another matter. If the Senators do come down and wish to speak, I would like them to have that opportunity.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. With that understanding, I will proceed and yield myself 4 minutes.

Mr. President, I strongly support the amendment of the Senator from New Hampshire to prohibit the requirement or the encouragement that our female service members serving in Saudi Arabia wear an abaya when they leave their military bases.

From 1991 until January 2002, U.S. military authorities required female

service members leaving military bases in Saudi Arabia to wear the abaya, a traditional religious garment for Saudi women. The rationale for this policy was force protection, respect for host nation customs, and preventing conflicts with the Saudi religious police.

This issue came to a head in December 2001, when Lt. Col. Martha McSally, an Air Force pilot stationed at Prince Bandar air base, initiated a lawsuit against DoD seeking a court order declaring the policy unconstitutional. In January 2002, the military announced a change in the uniform policy, making wearing of the abaya "not mandatory, but strongly encouraged." Lt. Col. McSally claimed this was insufficient and did little to change de facto pressure on military service women to conform to the old policy.

Mr. President, Lt. Col. McSally is the highest ranking female Air Force jet pilot. She is an Air Force Academy graduate with a Masters degree, a Desert Storm veteran, and has over 100 hours as a rescue pilot. When she refused to wear the abaya, Lt. Col. McSally was criticized for her unprofessionalism and lack of leadership. When she told her commanding officer "I cannot, will not put that thing on," she risked her career for the rights of America's female service members and, I suggest, for the rights of all of us.

Lt. Col. McSally is an officer who has patrolled the no-fly zone in Iraq and led search-and-rescue missions in Afghanistan. She is asked every day to be ready to save the lives of her fellow service members. Yet we deny her and all female service members serving our Nation in Saudi Arabia the same rights as their male counterparts as soon as they leave the base.

The Department's decision to change the requirement for female service members stationed in Saudi to wear the abaya off-base to a "strong encouragement" is, at best, a superficial change. A "strong encouragement" is practically the same as an order in military terms.

The State Department doesn't require female foreign service officers to wear an abaya in Saudi Arabia. Forcing service members to conform to a religious code not of their own violates their religious freedoms. Requiring, or "strongly encouraging," female service members to wear the abaya is oppressive, and it is demeaning to people who do not believe in the same religion as those presumably putting pressure on the U.S. to require wearing an abaya. At the same time we are asking our female service members to risk their lives to fight for the liberties we cherish, we are denying them the very freedom they are defending, simply because they are stationed in a country with different cultural norms. This is not acceptable.

The amendment before us would correct this policy by prohibiting, requiring, or encouraging our female servicemembers to wear an abaya when

serving in Saudi Arabia. It would also prohibit taking adverse action against servicemembers for choosing not to wear an abaya while assigned or on temporary duty in Saudi Arabia. Further, it would prohibit the use of Department of Defense funds to procure abayas for military personnel serving in Saudi Arabia and would require the military to inform female servicemembers of these prohibitions when they are ordered to duty in Saudi Arabia.

Mr. President, this is simply the right thing to do for our servicemembers who so loyally serve our country wherever we ask them to serve.

I congratulate Senator SMITH for his initiative in this matter. I think it is a very significant statement about what we are all about and what our military is all about. I hope the Senate will adopt this amendment.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I join strongly in recommending that our colleagues support Senator SMITH's initiative. And I associate myself with the remarks of our distinguished chairman. This is something that has to be corrected right now. We have extraordinary women performing in almost every capacity of our military today. This is one of those situations where maybe there were the best of intentions at the time, but it is out of hand now. It is time to correct it with finality and clarity. We are doing that with the Smith amendment.

I yield the floor.

Mr. GRASSLEY. Mr. President, I'm pleased to join Senators SMITH and CANTWELL, along with several other Senators, in proposing an amendment to end, once and for all, an ill-conceived and discriminatory policy in the U.S. Military.

Several years ago, the United States Central Command instituted a policy that requires our female service members in Saudi Arabia to wear an abaya while off base.

The abaya is a traditional religious garment worn by Saudi women not unlike the Afghan burqa.

Saudi women can face beatings by religious police if they are not wearing this garment and the U.S. Central Command has justified this policy as a force protection measure.

However, the Saudi Government does not require non-Muslim women to wear an abaya.

Westerners are merely expected to wear conservative clothing, such as slacks and collared shirts for men and long skirts and long sleeved blouses for women.

While it's sensible to make reasonable accommodations for a host culture, we must not forget that American personnel abroad are representatives of our free society.

In fact, the U.S. State Department explicitly forbids its female employees in Saudi Arabia from wearing the

abaya while serving in an official capacity for the United States Government.

We should be setting a positive example of respect for women, especially the very women who are helping to defend Saudi Arabia from would-be aggressors.

In order to try to alleviate the mounting criticism of the abaya policy, the Central Command revised its policy in January to state that the wearing of the abaya is "not mandatory but is strongly encouraged".

This distinction does not go nearly far enough and may mean little in practice.

Let me be clear, the abaya policy is not simply a bad idea and completely unnecessary, it is blatantly discriminatory.

All attempts to justify this policy have fallen flat and it has become painfully obvious that this policy must be abolished entirely.

Our amendment would prohibit the Department of Defense from requiring American servicewomen in Saudi Arabia to wear the abaya and forbid DOD to spend taxpayer money to purchase the garment.

It also protects our female service members from any kind of retaliation for not wearing the abaya garment.

At a time when Afghan women are celebrating their new found liberties, it is frankly embarrassing to have a policy in place that subjects our own servicewomen to a demeaning practice.

It is time for this policy to go and I would urge my colleagues to support this amendment.

Ms. LANDRIEU. Madam President, I am pleased to join my colleagues, Senator CANTWELL of Washington, Senator SMITH of New Hampshire, and Senator GRASSLEY of Iowa, as a co-sponsor of this critical amendment to provide justice, dignity, and equal rights to our service women stationed in Saudi Arabia.

The Kingdom of Saudi Arabia requires its women to wear garment called the abaya, it is a covering which extends from head to toe on a woman. It is part of the Muslim faith and their customs and traditions.

The Saudi Arabian government does not require American women living or visiting in Saudi Arabia to wear the abaya. Rather, both men and women are encouraged to wear modest American clothing.

When visitors come to my home, I anticipate they will abide by the rules I have established in my home. Therefore, I respect the wishes of the Saudi government, that when westerners enter Saudi Arabia, westerners should wear modest clothing. I would not want to violate the customs of a host country.

What I cannot understand is why the Department of Defense has determined that American service-women must wear the abaya when they leave the confines of the military bases in Saudi Arabia. The host government does not mandate that service women wear the abaya. More importantly to me, the

Saudi government does not require our service women to dress differently from our service men. However, our very own Department of Defense requires our service-women to dress differently from our service men. This is unjust and outrageous.

Our service women are equals to their male counterparts in the Armed Services. Women have died and bled in defense of this country. They can fly fighters, pilot helicopters, and drive ships. Those rights did not come easily. Roadblocks were put in the way, and I thought they has been overcome. But now, the Department of Defense wants to make our first-rate women soldiers second class citizens in the United States military.

I hope the Senate will approve this amendment and stand with the House of Representatives, which passed similar legislation, to send a strong message to the Department of Defense that women in uniform are not second class citizens.

In closing, I want to salute the women who brought this issue to America's attention. Lieutenant Colonel Martha McSally has always been a warrior. She fought the Pentagon's bureaucracy to become one of the first female fighter pilots. And, now she has to fight the Pentagon, once gain, in a court of law to overturn the Pentagon's abaya policy. Colonel McSally you serve as an inspiration to young women across the United States who want to serve their country. Today, I hope the Senate can come to Colonel McSally's defense, and all women serving in Saudi Arabia, to lift this irrational Pentagon rule.

Mr. SMITH. Mr. President, I ask unanimous consent that Senator MIKULSKI be added as an original cosponsor.

Mr. LEVIN. Mr. President, I will yield some of the time to Senator SMITH to control. Apparently, I control the time. Why don't I yield 5 minutes to Senator SMITH under his control, and then yield to Senator KENNEDY for 12 minutes, and then yield to Senator JEFFORDS for 10 minutes. That is just about right.

Mr. WARNER. May I inquire as to the subject of the Senator from Vermont?

Mr. JEFFORDS. It is about homeland security.

Mr. WARNER. We are very anxious to get to the Kennedy matter.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, first of all, I congratulate my colleague from New Hampshire for an excellent presentation. I look forward to supporting it for reasons that he has outlined. He made a very compelling case here this afternoon.

Mr. President, I ask unanimous consent that the Smith amendment be temporarily laid aside so that I may call up amendment No. 3918.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I also ask unanimous consent that immediately upon the reporting of my amendment, it be laid aside, and the Senate resume the consideration of the Smith amendment.

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

AMENDMENT NO. 3918

Mr. KENNEDY. Mr. President, I send an amendment to the desk.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY], for himself, Mr. REED, Mr. AKAKA, Mr. FEINGOLD, and Mr. DURBIN, proposes an amendment numbered 3918.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

(The amendment is printed in the RECORD of Thursday, June 20, 2002, under "Text of Amendments.")

Mr. KENNEDY. Mr. President, I have 12 minutes. I see my friend from Hawaii. He wanted to speak on my amendment. If the Chair reminds me when 9 minutes is up, if there is no objection, I will let the Senator from Hawaii speak for 3 minutes, if that is all right, following me.

Mr. KENNEDY. I will yield myself 9 minutes.

Mr. President, as I understand it, for the benefit of the Members, we are going to vote at 5:45. I bring to the attention of the floor leaders that we can have a vote on this at a time agreeable sometime in the middle of the morning tomorrow. We will have additional time to discuss this.

I offer this amendment to promote public-private competition for Department of Defense work. Today, there is far too little real competition for contracts to provide goods and services to Federal agencies. We should be getting the most out of every taxpayer dollar. So if a Federal agency could do the job better and cheaper than a defense contractor, the Federal worker should get the job.

Today, less than 1 percent of Department of Defense service contracts are subject to public-private competition. Only a tiny fraction of the more than 2 million DOD contracts face real competition. As a result, we are depriving loyal and dedicated public workers of the chance even to compete for their own jobs. At the same time, we are depriving the American people of the efficiencies they deserve, especially as we take on today's great challenges in defending the security of our Nation.

My amendment would lower costs for taxpayers and enhance our Nation's readiness by promoting expanded public-private competition.

Over the last decade, there has been a massive shift in who does the work for the Department of Defense. This work has shifted dramatically from ci-

vilian employees to private contractors. Between 1993 and 2001, the number of civilian employees at the Department of Defense declined by more than one-third. That represents the loss of 300,000 public jobs. The work has gone instead to private contractors. During a period of only 3 years, the contractor workforce expanded by almost 400 percent. The number of private contract jobs grew astoundingly, from 197,000 to 734,000 jobs—substantially surpassing the DOD's civilian workforce of public workers.

These are the same contractors who overcharge the Defense Department and taxpayers for simple tools and even toilet seats. The GAO study found that the cost of nearly 3,000 spare parts purchased by the military from private contractors increased by a 1,000 percent or more in just 1 year. One spare part estimated to cost less than \$3 was sold to the Government by contractors for \$14,529.

I have a list here from the GAO: A machine bolt, estimated at \$40, actual price: \$1,887; a hub body, estimate \$35, actual price: \$14,529; a self-locking nut, initial estimate \$2.69, actual price: \$2,185; a radio transformer, initial estimate \$683, actual price: \$11,000. The list goes on and on and on and on.

Surely, the DOD found that the cost of spare parts increased more than twice as fast between 1993 to 2000 when there was no competition. Do we understand that the cost of these spare parts increased dramatically over the period of time when there was no competition. Surely, we can do better.

The critical work by DOD is not subject to open, full competition. In many cases, the private contractors face no competition at all. In fact, the Associated Press reported last year that the Government bought more than half of its products without bidding or other practices to take advantage of the marketplace. As a result, current defense contractors are being unfairly shielded from competition. It is the taxpayers who are paying the price in higher costs.

In any other area of American business, these noncompetitive practices would be unacceptable. In fact, no private company would reasonably outsource jobs without a hard-headed analysis showing cost savings. Even the Department of Defense recognized that real competition has been sorely lacking.

When the inspector general looked at the Department of Defense service contract process in the year 2000, he concluded that 60 percent of service contracts suffered from "inadequate competition."

Despite these huge markups by private contractors, it doesn't mean their workers are being paid even a living wage. In fact, according to a study by the Economic Policy Institute, more than 1 in 10 Federal contract workers is earning poverty-level wages, and most of the firms paying these wages are defense contractors. Workers are



losing out and taxpayers are losing out from this lack of competition. Clearly, more private-public competition is needed to ensure that the taxpayers, as well as public workers, are getting a fair shake.

The record shows when there is real competition, public workers will show their strength. In fact, when Government agencies have competed for contracts, they have won the bids 60 percent of the time fair and square.

The public-private competitions that have taken place have saved an average of over 30 percent for an estimated \$660 million in savings to taxpayers. That means the taxpayers save money and good workers keep their jobs.

The amendment I am offering this evening requires an analysis of the costs of maintaining work in the public sector and contracting work out to the private sector. It lays out flexible principles to guide the public-private competition process and allows DOD broad flexibility in establishing a competition consistent with these principles.

The amendment also offers wide discretion to DOD by creating a number of exemptions from the public-private competition. When national security so demands, DOD is given the power to waive public-private competition.

The PRESIDING OFFICER. The Chair informs the Senator from Massachusetts he has used 7 minutes of his time.

Mr. KENNEDY. I thank the Chair.

Mr. President, the amendment also exempts many categories of work for public-private competition, including high-tech work.

The amendment also provides a waiver to DOD for functions that must be performed urgently.

Finally, it remains in the discretion of DOD to determine which jobs may be open to public-private competition.

The principles underlying this legislation have broad support. In fact, the administration is on record for expanded public-private competition. I want to show statements that were made this past spring.

This is Angela Styles of the Office of Management and Budget:

No one in this administration cares who wins a public-private competition. But we very much care that government service is provided by those best able to do so. Every study on public-private competition I have seen concludes that these competitions generate significant cost savings.

GAO recommendations:

Competitions, including private competitions, have been shown to produce significant cost savings for the government, regardless of whether a public or private entity is selected.

Mr. President, why not have competition? That is what this amendment is all about. When we have not had the competition, we have seen these explosions of cost. We are just saying let the Department of Defense set up the criteria. They can exclude the matters which are of national security importance, urgent, or have some other re-

quirements. But when we have the results, as I mentioned, the fact we have bolts and self-locking nuts, radio transformers, routine matters—I have a list of over 30 items right here in my hand—cable assembly; linear micro-circuit; aircraft stiffener, \$125, sold for \$3,400; insulation, \$1, sold for \$3,390.

Why do we tolerate it, Mr. President? How can the Defense Department not be willing to accept this?

I believe I have about 3 minutes. I yield those remaining 3 minutes to my friend and colleague from Hawaii.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. AKAKA. Mr. President, I thank Senator KENNEDY for the time.

Mr. President. I rise in support of an amendment to the DOD authorization bill that takes important steps to enhance cost-effectiveness and accountability in Government. I am pleased to have worked with Senator KENNEDY to offer this amendment to improve financial transparency and cost savings in procurement policies.

This amendment will promote sensible procurement policies by requiring cost savings before decisions are made to outsource Government functions. The requirement that the government show a 10-percent cost savings prior to outsourcing has been a part of the commercial activities analysis for many years and is considered standard practice. I tried to codify the 10-percent cost-saving provision last year in the National Defense Authorization Act for Fiscal Year 2002. I was met, however, with opposition because the Commercial Activities Panel had not yet completed its review. I am happy to report that the Commercial Activities panel completed its review last month and I am renewing my efforts, with my colleagues, to codify the 10-percent cost-savings provision. It is important to note that the amendment includes a provision which allows the Secretary of Defense to waive the cost-savings requirement if national security interests are compelling.

This amendment would promote public-private competition by ensuring that federal employees have the opportunity to compete for existing and new DOD work. It strengthens fairness in public-private competitions by ensuring that DOD competes an equitable number of contractor and civilian jobs. It also improves government transparency by establishing measures to track the true cost and size of the DOD contractor workforce.

The amendment offers wide discretion to the Department by creating a number of exemptions from the requirements of public-private competition. The amendment gives the Department the authority to waive public-private competition requirements when national security requires such action.

The passage of this amendment would lead to smarter and more efficient procurement policy for the Federal Government. As chairman of the Senate Armed Services Readiness Sub-

committee, I will continue to work to ensure DOD procurement policies are conducted in a manner that achieves the best return on the dollar. This amendment takes important steps toward this goal.

I yield back my time, Mr. President.

The PRESIDING OFFICER. Who yields time?

AMENDMENT NO. 3969

Mr. LEVIN. Mr. President, I believe the Senator from Washington needs 5 minutes, and Senator JEFFORDS has agreed to withhold his comments until after the vote, which is very helpful. Senator SMITH has 5 minutes, and I believe Senator THOMAS wants 8 minutes.

Mr. SMITH of New Hampshire. Mr. President, I do not need 5 minutes. I yield my 5 minutes to the Senator from Washington.

Mr. LEVIN. Is the Senator from Iowa here to speak on this amendment?

Mr. GRASSLEY. No.

Mr. LEVIN. Senator REID is not in the Chamber. The agreement is we will vote at 5:45 p.m. If we provide time for those two Senators, it will be 5:40 p.m. Do we know whether there is any objection to voting at 5:50 p.m. instead of 5:45 p.m.? None.

I ask unanimous consent that Senator CANTWELL speak for 5 minutes, then Senator THOMAS speak for 7 minutes, and then we will vote at 5:50 p.m. instead of 5:45 p.m.

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

The Senator from Washington.

Ms. CANTWELL. Mr. President, I rise today in support of the Smith-Cantwell-Grassley amendment to prohibit the Department of Defense from ordering female military personnel to wear the Saudi abaya garment. Before I begin my statement, I would like to thank Senator BOB SMITH for his tremendous work on the issue.

For most of the last 8 years, officer and enlisted women who are stationed with the Joint Task Force Southwest Asia in Saudi Arabia have been required to wear the abaya when going off base, either for official duties over their uniforms or in their off duty hours. The abaya is the traditional religious garment for Saudi women, similar to the Afghan burqa.

On Tuesday, May 14, the House passed, by unanimous voice vote, its prohibition against the Department of Defense requiring or compelling U.S. female service members in Saudi Arabia to wear the abaya garment, either on or off duty. Like the House legislation, the amendment we are discussing today prohibits the Department of Defense from forcing or encouraging American servicewomen in Saudi Arabia to wear the abaya garment, restricts the Department of Defense from spending taxpayer money to purchase the garment, and protects servicewomen from retaliation should they choose not to wear the garment off base.

As a democracy, we should be at the forefront of embracing equality for all

of our citizens, and by our actions show that we practice what we preach. The military has gone to great lengths to communicate to the troops that they are respected regardless of race, religion or gender. But encouraging our military women in Saudi Arabia to wear the abaya communicates just the opposite viewpoint . . . it reinforces gender stereotypes and sends the message to our soldiers that women are not equally valued.

The Department of Defense policy requiring military women to wear an abaya whenever they went off base, and other measures directed exclusively towards women, started shortly after the Gulf War. It is important to note that during the war, General Schwarzkopf worked closely with the U.S. embassy and the consulate in Dhahran on the Gulf coast to set up liaison procedures with the Saudis that would nip problems in the bud. As a result, while women were encouraged to wear the abaya when off base, they were not required to. Nor were they required to sit in the back seat of motor vehicles. Nor were they forbidden from driving, since that rule impeded the military's mission.

Why these policies changed in the early 1990s is still unclear. At first, the reason was "host nation sensitivities." As you may recall, although there were many restrictions on the troops during Operation Desert Storm, the relative freedom our military women enjoyed vis-à-vis the local women, prompted a demonstration by defiant Saudi women who drove their cars around Riyadh, saying, in effect, that what U.S. military women could do, Saudi women should be allowed to do, too. This situation, and the fact that Riyadh is one of the most conservative areas of the country, may have been the reason the Joint Task Force Southwest Asia commander acquiesced to these new policies. The consequence of this, however, is a policy that sets up a double standard and denigrates female personnel in the U.S. military.

After the Khobar Towers bombing in 1996, the primary reason for the restrictive policies towards women changed to "force protection." The Department of Defense states that this policy is for the protection of the military women . . . that if they do not wear this garment they would be subject to beatings and other harassment by the Mutawa, the Saudi religious police. The Department of Defense states that if women do not wear the abaya, they will not blend in, thus making military personnel in Saudi Arabia targets for terrorist attack. Finally, the Department of Defense states that if women do not wear the abaya, male military personnel would be subject to harassment and arrest.

Frankly, any action taken against U.S. military personnel—male or female—by the Saudi religious police—the Mutawa—for purported infractions of their strict behavioral codes should be strongly protested by the military

and the state department to the Saudi government. Although women have been harassed, both while wearing the abaya and when not wearing the abaya, I have no information that any protest about the Mutawa's actions has ever been initiated either by the State department or the Department of Defense.

I understand that the norms for public behavior in Saudi Arabia are extremely conservative. According to our own State Department travel advisory regarding proper attire and behavior when visiting Saudi Arabia, visitors, both male and female, should wear very conservative clothing, and behave so as not to draw attention to themselves.

For women, skirts should be ankle length, sleeves wrist length, and necklines above the collarbone. Pants and pantsuits may attract unwanted attention. The Mutawa are charged with enforcing these standards. Although the climate in Saudi Arabia is very hot, and lightweight clothing is recommended for travelers, the abaya consists of a black material that, along with the headscarf, covers the wearer from head to foot. However, I think it is really important to note that the Saudi government does not require non-Muslim women to wear the abaya.

While U.S. military women have been required to wear the abaya even when on duty, official State department policy is that its female personnel on official business are expressly forbidden from wearing the abaya because they are representing the United States Government. These women may wear the abaya when off-duty if they choose, and many state department female employees do choose to wear the garment when not on official business, in deference to the Saudi culture.

The Department of Defense now says that it will change its policy from explicitly ordering that women wear the abaya while on duty but off base, to a policy that "strongly encourages" wearing an abaya. Women in my state who have been stationed with the military in Saudi Arabia tell me that the words "strongly encourage" are tantamount to an order. There is no choice.

Many other men and women from my home state of Washington have written me supporting changing the Department of Defense policy in Saudi Arabia that strongly encourages women to wear the abaya garment over their clothes when they leave the base.

One of my constituents, a veteran from Kent, WA, wrote to say "women that have served this country honorably and distinguished themselves in battle deserve our respect and support." He applauded the willingness to women, especially Lieutenant Colonel Martha McSally, the Air Force Colonel who first brought this attention to national attention, for "her willingness to stand up and fight the repressive and unreasonable orders for females in the services to wear an abaya and be subject to other demeaning practices

when they are stationed in Saudi Arabia."

Another veteran from Olympia, WA, who writes that he is "appalled at the treatment of a true American hero . . . [while] the Pentagon demeans her with an embarrassing dress code while in Saudi Arabia."

Another constituent from Seattle, WA, was a military police officer in the U.S. Army, and wrote that she was "incensed to learn that our military women in Saudi Arabia are being subjected to" wearing the abaya and asked that we immediately rescind these regulations.

We are not advocating that military women be able to wear tank tops and shorts when off base in Saudi Arabia . . . but we do believe that wearing the recommended conservative clothing maintains a woman's dignity and status among our U.S. troops stationed there. We need to balance host nation sensitivities with our nation's goal to promote American values of democracy and equality abroad.

The fact of the matter is that what it comes down to, when you value people, you give them freedom, including the freedom of self-determination. That is who we are and what our country represents across the world.

As U.S. Senators, we should strive to ensure that our military men and women are treated fairly wherever we send them to accomplish our country's work. I understand that Americans serving overseas are there by agreement of the host nation, and that the host nation can withdraw that agreement when they see fit. I also understand and believe that Americans should respect and abide by a host nation's laws.

Yet, every military member is a representative of our country and a soldier-statesman whether a private or a general. When they represent us, they represent our democratic ideals. Soldiers, both men and women, are fighting for our democratic principles. We want our military personnel to abide by the rules of the country in which they are stationed, but we should not impose stricter rules on only one group of our soldiers, especially when it is not required by the host nation.

The Department of Defense has had ample opportunity to rescind this policy, but they have only made token attempts to change its policy in a manner that effectively leaves its original policy in place. There is no doubt that the Department of Defense needs the flexibility to ensure the force is protected and our country's military readiness is not impeded. However, this must not be done at the expense of our female soldiers' civil and religious freedoms. There are approximately 1,000 women stationed in Saudi Arabia. It is inconceivable that while we entrust these women and ask them to put their lives on the line, at the same time we are asking them to succumb to outdated ideas about what individuals can or cannot do because of gender.

Last month, the House, by voice vote, unanimously approved similar legislation. We are here today to complete the circle and show our support for our women in uniform who not only have to fight our enemies, but also apparently have to fight for their rights within our own military.

While there are sometimes conflicts in what the military wants, and what the civilian leadership wants, we must remember that the military answers to its civilian leadership. If Congress didn't use its authority to require the military to change its policies, our service academies would still be all men, our fighter pilots would still be all men, and our ships would still be all men. And our military would be a shell of what it is today, because without women, the military could not function as a professional, all-volunteer force.

Mr. President, I want to take a moment to acknowledge the hard work of Darlene Iskra, a legislative fellow in my office. Darlene is a retired Navy Commander; in fact, she is the first woman ever to command a U.S. Navy ship. Her work in my office, and especially on this issue, has been invaluable.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. Who seeks time?

The Senator from Wyoming.

Mr. THOMAS. Mr. President, I rise to speak in opposition to the Kennedy amendment.

In 1998, this body passed unanimously the Federal Activities Inventory Reform Act of 1998. I was one of the principal sponsors. The FAIR Act was passed unanimously, as I said. It was a carefully crafted compromise at that time between the private sector and the unions, the first time a process was codified to help assure proper implementation of a 47-year-old Federal policy that states the Government shall not be involved in commercial activities, a policy that has been in place for a very long time, and a very clear policy, I believe, that we ought to go to the private sector for those things that are not inherently governmental. We passed that unanimously. It is now in the process of being implemented.

The sponsor of this amendment spent most of his time talking about the Defense Department support of this proposition. I want to share a letter or two that I received. This one happens to be from the Secretary of Defense, Donald Rumsfeld:

Dear Mr. Chairman: I am writing to express my strong opposition to the draft amendment proposed by Senator Edward Kennedy. . . . As you know, we have made a top priority of finding efficiencies and savings within the Defense Department to enable us to improve our tooth-to-tail ratio. . . . The draft Kennedy amendment would increase Department cost by requiring public-private competitions for new functions and for previously contracted work already subjected to competition. It would also adversely impact mission effectiveness by delaying contract awards for needed services.

This is very strong opposition from the Secretary of Defense.

This next letter comes from the Executive Office of the President, Office of Management and Budget Director Mitchell Daniels. He says:

I am writing to express deep concern over the possible Kennedy amendment. . . . While agencies are embracing competition, focusing on core mission, and eliminating barriers to entering the marketplace, this amendment does the opposite. It would require the government to consider reforming noncore activities that it doesn't have the skills to do when entrepreneurs and their employees are ready, willing and able to perform.

Finally, let me share one more letter, from Assistant Secretary of Defense Powell Moore. He says:

The Department of Defense strongly opposes an amendment to be offered by Senator Kennedy that would restrict the Department's ability to contract with the private sector. The following information sheet outlines the Department of Defense' views on the proposed Kennedy amendment.

Very briefly—and this is from the Department of Defense—the amendment would increase costs to the Department by over \$200 million a year. By requiring 10-percent cost savings with no limitation, DOD will not be able to take advantage of savings greater than \$10 million but less than 10 percent.

Mr. WARNER. Will the Senator yield for a question on that cost point?

Mr. THOMAS. Yes.

Mr. WARNER. That derives from the 10-percent differential, does it not?

Mr. THOMAS. Yes, sir.

Mr. WARNER. It does not include the costs of the hiring and the training and incalculable number of new Federal employees; am I not correct?

Mr. THOMAS. The Senator from Virginia is correct. Indeed, the Secretary says the added costs to which the Senator refers are likely to exceed \$100 million per year in addition.

Mr. WARNER. In addition. I thank the Senator.

Mr. THOMAS. He says further:

Less efficiency: The amendment would adversely impact mission efficiencies and effectiveness.

I just got through saying we unanimously adopted the outsourcing bill, the FAIR bill. This amendment, according to the Department of Defense, would foster insourcing which would exacerbate the Federal human capital crisis we are now in, in this war on terrorism.

Finally, he indicates it preempts the congressional intent. This amendment would preempt implementation of the recommendations of the congressionally mandated, GAO-chaired, commercial activities panel.

I intend to spend a good deal more time talking about this as we have more time after the vote. There are a number of others who wish to speak as well, and I will say I will object to any certain time before noon tomorrow for a vote on the Kennedy amendment.

I yield the floor.

VOTE ON AMENDMENT NO. 3969

The PRESIDING OFFICER. All time has now been yielded back.

Mr. SMITH of New Hampshire. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to amendment No. 3969.

The clerk will now call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Illinois (Mr. DURBIN), the Senator from Maryland (Ms. MIKULSKI), and the Senator from New Jersey (Mr. TORRICELLI) are necessarily absent.

I further announce that, if present and voting, the Senator from Illinois (Mr. DURBIN) and the Senator from Maryland (Ms. MIKULSKI) would each vote "aye."

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS), the Senator from Arkansas (Mr. HUTCHINSON), the Senator from Alaska (Mr. MURKOWSKI), and the Senator from Pennsylvania (Mr. SANTORUM) are necessarily absent.

The PRESIDING OFFICER (Mr. AKAKA). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 93, nays 0, as follows:

[Rollcall Vote No. 161 Leg.]

YEAS—93

Akaka	Dodd	Lincoln
Allard	Domenici	Lott
Allen	Dorgan	Lugar
Baucus	Edwards	McCain
Bayh	Ensign	McConnell
Bennett	Enzi	Miller
Biden	Feingold	Murray
Bingaman	Feinstein	Nelson (FL)
Bond	Fitzgerald	Nelson (NE)
Boxer	Frist	Nickles
Breaux	Graham	Reed
Brownback	Gramm	Reid
Bunning	Grassley	Roberts
Burns	Gregg	Rockefeller
Byrd	Hagel	Sarbanes
Campbell	Harkin	Schumer
Cantwell	Hatch	Sessions
Carnahan	Hollings	Shelby
Carper	Hutchison	Smith (NH)
Chafee	Inhofe	Smith (OR)
Cleland	Inouye	Snowe
Clinton	Jeffords	Specter
Cochran	Johnson	Stabenow
Collins	Kennedy	Stevens
Conrad	Kerry	Thomas
Corzine	Kohl	Thompson
Craig	Kyl	Thurmond
Crapo	Landrieu	Voivovich
Daschle	Leahy	Warner
Dayton	Levin	Wellstone
DeWine	Lieberman	Wyden

NOT VOTING—7

Durbin	Mikulski	Torricelli
Helms	Murkowski	
Hutchinson	Santorum	

The amendment (No. 3969) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, is it clear that the matter has been reconsidered and laid on the table?

The PRESIDING OFFICER. It has been so ordered.

Mr. WARNER. I thank the Chair.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I just came down and voted, and I am not aware of the parliamentary situation. But I wonder if it would be appropriate to get 5 minutes on a very urgent subject.

Mr. REID. Will the Senator yield?

Mr. DOMENICI. Surely.

Mr. REID. We see a number of people on the floor. We see the Senator from Kansas is here, the Senator from New Mexico, the Senator from Arizona. And I know the two managers have some work to do on the bill. I am wondering how long the Senator from Kansas wishes to speak.

Mr. BROWNBAC. About 5 minutes.

Mr. REID. Is that on the pending amendment or some unrelated matter?

Mr. BROWNBAC. On the pending amendment.

Mr. REID. On the pending amendment.

Mr. WARNER. And Senator DOMENICI wants to speak.

Mr. REID. Senator DOMENICI wants to speak on an unrelated matter.

Mr. WARNER. And I believe my colleagues from Wyoming and Arizona want to speak on the pending amendment.

Mr. DOMENICI. However you would like it. You would rather I speak on the pending amendment?

Mr. REID. The Senator from New Mexico may speak on whatever he wishes.

Mr. DOMENICI. I was just kidding.

Mr. REID. I just want to make sure we have a lot of conversation on this amendment. I am sure we would allow the Senator from New Mexico to speak as in morning business. Is that what the Senator wishes to do?

Mr. DOMENICI. I ask for 5 minutes—not on this—as in morning business. And I thank the Senator.

Mr. REID. Mr. President, I ask unanimous consent that the Senator from New Mexico be recognized to speak as in morning business for 5 minutes, and that following his statement we turn to the pending amendment, the Kennedy amendment, and that Senators then speak to their hearts' content on that matter.

Mr. WARNER. Mr. President, reserving the right to object, I wonder if I might, as a manager, be recognized first in the order of those to be recognized following the Senator from New Mexico.

Mr. REID. That sounds entirely appropriate. I ask unanimous consent that the comanager of the bill, the Senator from Virginia, Mr. WARNER, be recognized following the statement by the Senator from New Mexico.

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

(The remarks of Mr. DOMENICI are printed in today's RECORD under "Morning Business.")

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, with all due respect to my good friend and valued member of the Armed Services Committee, Senator KENNEDY, his amendment, in my judgment, would do very serious damage to the Department of Defense, particularly to the ability of the Department to contract quickly for essential services—the operative word being quickly. What now takes the Department weeks to contract for would take up to years if this amendment is adopted. As DOD wages a global war against terrorism, I and many others find it very hard to believe that the Senate would even consider approving such legislation.

I understand the frustrations with the current A-76 process, which governs public-private competition of existing Federal work. That is why 2 years ago, as part of the fiscal year 2001 Defense Authorization Act the Congress established the Commercial Activities Panel, under the auspices of the GAO, to review and recommend ways to fix the A-76 process. This panel recently issued its recommendations. Those recommendations should include replacing A-76—and the Presiding Officer spent a lot of time on this issue and was very much involved in the debates last year—with a process that relies on an existing Federal acquisition framework that emphasizes quality, best value, fairness, and transparency.

Let's give this initiative time to work. The legislation before us, however, would go directly counter to the recommendations of this panel—a panel comprised of members of the administration, industry, labor, and the Comptroller General of the United States, who spent almost 2 years analyzing the complexity of this subject. And now, if we, the Senate, were to adopt this amendment, and indeed it would go to conference and somehow become law—which I seriously doubt—were we to go on record at this time and adopt this amendment, we would be sort of ignoring the good work taking over 2 years by a panel, which was established by this body.

The Senate needs more time to review the issue of public-private sector competitions, in light of the recommendations of this panel. We have not yet held hearings on the recommendations which were released only last month by the Commercial Activities Panel. The Governmental Affairs Committee and the Armed Services Committee should seriously review the commission's recommendations and hear from other parties. Indeed, we could consider Senator KENNEDY's legislation as part of that review, as well as any other legislation that other Members of this body may have. To consider this issue at this time would be to preempt the work that should be and will be done by the committee.

At the appropriate time, I regret to say, I will offer a motion to table the amendment of our distinguished Senator from Massachusetts, Mr. KENNEDY. If that motion fails, I will offer

my own alternative that implements the recent recommendations of the GAO Commercial Activities Panel to fix the A-76 process. I hope that will not be necessary because we should go through a series of hearings by the appropriate oversight committees.

I believe Senator THOMAS, likewise, has several other alternatives, and there may be other Members with amendments on our side. I hope we can find a way at this point in time to respectfully decline to accept the amendment of the Senator from Massachusetts.

The amendment before us would arbitrarily require the government to compete with the private sector, under the time consuming and expensive A-76 process, for the performance of commercial services—regardless of whether there are any Federal workers to perform the work. In so doing, this amendment would cripple government performance, undermine competition, exacerbate the federal human capital problem, and devastate small businesses. This amendment overturns over 50 years of bipartisan policy mandates that the government should not compete with the private sector for "non-inherently governmental" functions.

Under this amendment, almost every new contract, contract modification, task order, renewal, or re-competition would have to undergo a lengthy public-private "competition" under the OMB Circular A-76—whether or not the government even has the right skills and personnel to perform the work. The private sector and many in the Federal workforce, believe the process is too expensive, too complex, and unfair to all parties. Yet this amendment would require a vast increase in A-76. DOD estimates this expansion would cost over \$200 million a year, at a minimum.

By mandating A-76 competitions, this amendment would cause long delays in the performance of defense services. Compared to most modern competitive procurements, which are completed in weeks or months, A-76 competitions take a minimum of 18 months and often as long as three years or more to complete. Under the amendment, DOD would lose its critical ability to swiftly procure innovative defense and homeland security services and products necessary to prevail in the war against terrorism.

The advocates for this legislation say they have given DOD a waiver from the requirements of the bill. With over \$60 billion in services contracts a year there are just too many contracts for DOD to process waivers at the Secretary of Defense or Assistant Secretary level. DOD's procurement process is already too cumbersome. We do not need another step in the process. As the top federal acquisition official, Angela Styles recently stated:

The proposed legislation would put at risk the Federal Government's ability to acquire needed support services in both the short and long term.

The amendment would undermine the robust competition for government service work that currently exists. The fact is that almost all of the work that would be affected by this amendment is already routinely competed in a robust and aggressive marketplace. According to the Federal Procurement Data System, in FY00 72 percent of all service contract actions—and more than 90 percent of all information technology contract actions—were subject to competition. Of the remainder, over 50 percent involved services—e.g., electricity or water—for which there was only one available provider. By contrast, less than two percent of all service work performed by Federal employees is subject to the competition of any kind. When Federal employees are subjected to competition the savings have—according to DOD—consistently averaged 34 percent.

The amendment would devastate small businesses. Small businesses account for 35 percent of Federal contract dollars. Yet the amendment would exclude most small businesses—particularly woman-, minority-, and veteran-owned companies—from participating in service contracting, because of the added costs and time associated with the A-76 process, when compared to traditional procurements. Small businesses just don't have the capital to wait several years to begin work. They would, in effect, be excluded from new Federal contracts under this amendment.

In general, the cumulative effect of the provisions of the Kennedy amendment would add significant costs to Department of Defense operations. These costs would result from: (1) The vastly increased use of the burdensome A-76 process for contracting-out or contracting-in decisions; (2) the delay of up to 3 years in providing essential operational support services because of the expanded A-76 requirements; and (3) a massive diversion of DOD administrative resources from mission critical support to administer a several fold increase in burdensome, labor-intensive A-76 studies.

I hope my colleagues will reach the conclusion that this amendment does not succeed in resolving the underlying problem the amendment is trying to address—that is, how to structure public-private competitions that are fair, transparent, and protect the rights of Federal workers while ensuring that DOD receives quality solutions at the best value to the taxpayer to meet its missions and responsibilities in our fight against global terrorism.

I urge my colleagues to defeat this amendment.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. BROWNBACK. Mr. President, I rise to speak on the Kennedy amendment to the DOD authorization bill. When I first came into the Senate, I chaired a subcommittee within the Governmental Affairs Committee that dealt with this issue. We held a number

of hearings on the topic of public-private competition. I wish to talk briefly about this legislation and the background of it and why I don't think it is a good idea to move forward on it at this time.

In 1998, Congress passed the Federal Activities Inventory Reform Act, the FAIR Act. I was a strong supporter of this legislation, and it passed the Senate unanimously in 1998.

This piece of legislation was a compromise between the private sector and unions that, for the first time, codified a process to help assure proper implementation of the 47-year-old Federal policy that states:

The government should not be involved in commercial activities.

That was a simple Government policy for 47 years, and the FACT Act codified and fleshed out that simple statement, a statement with which everybody agreed.

The goal of the FAIR Act was to eliminate the Government's direct competition with the private sector—again, unanimously passed by this body—while at the same time providing a better utilization of taxpayers' dollars. The FAIR Act created a more cost-effective and streamlined Federal Government and people agreed with that. Much of the FAIR Act was pushed forward by the Clinton administration.

The Kennedy amendment applies only to the Department of Defense. It directly impacts the FAIR Act. This amendment would create a two-tier contracting system setting up different standards for DOD versus civilian agencies. That is the first problem.

Next, this amendment would revise the steps that were made with enactment of the FAIR Act. That is the next problem with the amendment. This is a policy that was unanimously agreed to by this body. The Kennedy amendment, for the first time, would mandate the Federal Government compete with the private sector for work not currently being performed by Federal employees.

The Kennedy amendment would increase the size and the cost of the Federal Government.

The amendment would adversely impact DOD's mission, efficiencies, and effectiveness because all service contracts would be significantly delayed. If enacted, DOD would lose the flexibility it needs to purchase innovative solutions to improve our military's performance and national security.

This amendment would increase the cost to the Department of Defense by over \$200 million, not an insignificant sum at a time when we are looking at deficit spending and trying to figure out ways to curtail deficit spending and get back into surpluses.

Furthermore, this amendment would complicate DOD's procurement process, cost the taxpayers more money, and increase dramatically the number of DOD employees. This is not necessarily the direction in which most people desire to go.

The amendment would hurt small businesses by making it harder for

them to compete in the business process. It goes against longstanding goals of both Democratic and Republican administrations.

The Kennedy amendment ignores the progress made under the Clinton administration's policy in its reinventing Government initiative of streamlining the Government procurement process.

The Kennedy amendment also is counter to the efforts by the Bush administration aimed at performance-based contracting and increasing Government efficiencies.

The Bush administration opposes this amendment. Secretary Rumsfeld said:

The Kennedy amendment would increase Department cost by requiring public-private competitions for new functions and for previously contracted work already subjected to market competition. It would also adversely impact mission effectiveness by delaying contract awards for needed services. The proposed amendment would increase Department costs and dull our warfighting edge.

This matter is not a union versus nonunion or labor-management issue. Several groups have come out already against the Kennedy amendment, including the U.S. Chamber of Commerce, Laborers' International Union of North America, International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers.

A similar amendment offered by Representatives ALLEN and ANDREWS was defeated by the House when it was considered during its version of the Defense authorization bill for 2003.

As we face the challenges of homeland security and national defense, keeping our borders, economy, and society safe and free, we need to create more efficient and effective partnerships between the public and private sectors. Now is not the time to restrict the Department of Defense's competitive sourcing policies with this amendment.

I think this is an ill-advised procedure for us to enter into at this time. It goes against the longstanding bipartisan effort to not have the Federal Government competing with the private sector. There is no reason for us to go into this at this time. It really will be harmful to our overall operation. For those reasons, I oppose the Kennedy amendment.

I yield the floor.

The PRESIDING OFFICER (Mr. CARPER). The Senator from Kansas yields the floor.

The Senator from Wyoming.

Mr. LEVIN. Will the Senator yield?

Mr. THOMAS. Certainly.

Mr. LEVIN. Mr. President, if I may have a colloquy with Senator WARNER for a moment.

Mr. President, I wonder if Senator WARNER and I can agree on the following order: That after Senator THOMAS has finished, then Senator KYL be recognized perhaps at about 7 o'clock, and after Senator KYL has finished, we go into a period for morning business with Senators to be recognized for not

more than 10 minutes each; that as soon as Senator KYL is recognized, that will be it for the day. We will do our cleared amendments in the morning rather than trying to do them tonight.

We will try to proceed in the morning after we have had an opportunity to review the amendment that Senator WARNER has shared with me now relative to missile defense.

Mr. WARNER. Mr. President, I am basically in concurrence, and then we will be clear on the understanding that at the conclusion of the debate by those Senators designated, we will conclude all work on the authorization bill and go into morning business, subject, of course, to whatever the leaders wish to take place.

I have provided the distinguished chairman with the proposal on missile defense that I have. It is my hope we can debate that tomorrow, establish a time agreement giving all a reasonable amount of time for debate, spend some time in the morning, some time in the afternoon, and have a vote tomorrow afternoon, so we can then move into Wednesday in the expectation we can conclude this bill on Wednesday.

Mr. LEVIN. It is surely our hope we conclude the bill as early as possible this week, but I will reserve judgment on the amendment relative to missile defense that Senator WARNER shared with me until after we have had a chance to read it and study it.

I thank Senator WARNER always for his courtesy. He is wonderful to work with. We will try to get back with him either tonight by phone or first thing in the morning relative to a possible procedure tomorrow.

As he stated, after Senator THOMAS and Senator KYL have completed their remarks tonight relative to the Kennedy amendment—I ask unanimous consent that after these two Senators have finished their remarks relative to the Kennedy amendment, there 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.

The PRESIDING OFFICER. The Senator from Wyoming, Mr. THOMAS, is recognized.

Mr. THOMAS. I thank the Chair, and I thank the floor managers of the bill for arranging this time and setting it up for this evening.

Mr. President, I wish to comment a little more on this bill. It is one that I believe is very important. It is very important because it changes what we have done in the past. It changes the concepts and the principles that we have had for a very long time.

I suppose there are always different ideas about where we ought to be going in Government. I am one who believes that those activities that are not inherently governmental certainly ought to be available for the private sector and that, indeed, we ought to try to contain the size of the public sector—I think all of us would say we want to do

that—and to use the competition among the private sector to get the most efficient task done for us that we possibly can.

Of course, as has been mentioned, this has been the policy of the Federal Government for a very long time. Frankly, it has not worked very well. We have not been able to find a way to identify those issues, those activities that are nongovernmental, or at least not inherently governmental, that could be contracted out. We have not gone through the system. So we finally, in 1998, passed another bill that provided for the identification of various activities. Unfortunately, there was not much done with it. The administrations were not very interested in doing that.

As has been mentioned, we now have some principles that have been put in place that will provide for a more efficient way of moving toward the concept with which I think most of us would agree, and that is we ought to do in the private sector, in the competitive sector, all those activities that are appropriate. If that is our view, then this amendment is inconsistent with that view and, indeed, makes it much more difficult for us to accomplish that.

For example, these are some of the things that were set forth by the Defense Department that they believe are difficult and that should cause us not to pass this amendment that is before us. First, it would have more requirements. The amendment would significantly increase the numbers of public-private competition by requiring each competition for new work and work already under contract without any benefit to the taxpayer or war fight. Private sector competition already provides savings and efficiencies in the work that is covered by this amendment. Certainly, costs ought to be something that we are always aware of, but as we get into this business of terrorism and all this spending that we must have, then increased costs seem to me to be even more important.

The amendment would increase costs to the Department. This is information brought forth by the Defense Department. It would increase costs to the Department by over \$200 million a year. Cost for additional competitions is likely to exceed \$100 million or \$4,000 per position. By requiring 10-percent cost savings, with no limitation, DOD will not be able to take advantage of savings greater than \$10 million but less than 10 percent. Added costs would likely exceed \$100 million a year in addition to what is already there.

Less efficiency: The amendment would adversely impact mission effectiveness and efficiencies. Awarding contracts for services will be significantly delayed under the contract. The average time to conduct a public-private competition is 25 months, whereas the average time to award a competitive contract with private firms is less than half of that.

Time is important in the defense industry. We are in a time when we need to make changes quickly.

Because contractors must commit more resources to pursue public-private competitions due to longer lead times and more involved process, there would be fewer competitors on such competitions, thus limiting DOD's access. So it would result in the opposite of what we say we have been for, for a very long time, and that is more insourcing.

The amendment would foster insourcing, which would exacerbate the Federal human capital crises. We talk a lot about the military and what we are going to do and how we fulfill the numbers that are necessary. Here is an opportunity to make that even more difficult and require that we do that.

DOD does not have idle capacity available to compete for either new work or work currently being performed by contractors. If DOD were to win new work or already contracted work, hiring would have to increase significantly at a time when we are already faced with difficulties.

The Government personnel system is not nimble enough to hire or move large numbers of personnel on short notice. This is the assessment of the Department of Defense of themselves.

Having DOD personnel perform new work or work previously contracted out is not the best use of limited defense resources. Further, they say it preempts congressional intent. Well, we are the ones, of course, who ought to know that.

It has been indicated that this is supported by the U.S. Chamber of Commerce. But here is one that is kind of interesting. It is also supported by a letter from the Laborers International Union of North America. This is a labor union that is opposed to this amendment and has two pages of materials as to why they are opposed.

Then, of course, I suppose not unexpectedly, there is a letter from the Contract Services Association of America. These are the people who are involved. These are the people whom we have been seeking to give more opportunities, to make this work, than they have had in the past.

It is interesting how no more real attention has been paid to this than the number of people and organizations that have come out in opposition to the amendment. This says: Attention, Members of the U.S. Senate—and it lists national security officials and experts, about 15 of them: Secretary of Defense Donald Rumsfeld, OMB Director Mitchell Daniels, the Under Secretary of Defense, a number of admirals, a whole list of people who say this is not a good thing for us to do; organized labor, the Laborers International Union of North America, AFL-CIO; Seafarers International Union, AFL-CIO; Industrial Technical Professional Employees Union, International Union of Operating Engineers, International Brotherhood of Boilermakers, Iron

Ship Builders, Blacksmiths, Forgers, and Helpers, and others, as well as small minority- and women-owned businesses. It is quite a large list.

So it is interesting, and I think very important, to recognize the number of groups that have indeed expressed their opposition to the amendment we are seeking to deal with now.

This time, of course, will be very important. We have some others who want to speak who will be coming out a little later to speak, as well as tomorrow. Again, there are many reasons that have been set forth as to why the Kennedy amendment should be stopped. The amendment would arbitrarily require the Federal Government to compete with the private sector for performance of noninherently government services, whether or not there is an incumbent Federal workforce performing the act. It is totally beyond what we sought to do unanimously in the Senate, and we are very interested in seeking to keep that from happening.

Over 50 years of bipartisan policy has mandated the Government should not compete with the private sector for noninherently governmental functions. Nevertheless, this amendment would require every new contract modification, task order, or renewal undergo a lengthy public-private competition under OMB Circular A-76, whether or not the Government even has the requisite skills or the personnel required to perform the work.

Today, less than 2 percent of all Government services contracted are conducted under A-76 because only that small portion of Government has been involved in the incumbent Federal workforce. So this changes things dramatically and not for the better. The amendment would cripple Government performance. The amendment would undermine robust competition for opportunities that already exist. So there are a lot of things that are involved. One of them has been that the A-76 process has been one that has needed help, and continues to.

For those who do not know, the Office of Management and Budget's Circular A-76 is the Government's policy that is used to determine who can best provide products and services it needs. The circular defines Federal policy for determining whether commercial activity should be outsourced to commercial sources or kept within the Federal Government.

OMB Circular A-76 was first issued in 1966 and has been revised numerous times since. The A-76 process is very formal and intricate, often a lengthy process for conducting public-private competitions. In order to win an A-76 competition, an outside proposal must be at least 10 percent less than the Government proposal. The average A-76 study requires approximately 30 months to be completed. For years, individuals within the Government and the private sector have criticized the A-76 process.

Two years ago, the Congress called upon the General Accounting Office to evaluate the A-76 process because of concerns about its effectiveness. A GAO panel unanimously agreed to 10 principles. In particular, the panel agreed unanimously that public-private competition should not be mandated, particularly for already contracted or new work. However, that is exactly what the Kennedy amendment proposes. The amendment goes against the recommendations of the GAO panel. In fact, Senator KENNEDY's amendment would derail the GAO panel's recommendations and therefore would cause us a great deal of slowness and indeed potentially losing the idea of the reconsideration and the changing of A-76.

The goals of the FAIR Act were very clear. They were to create more cost efficiency and streamline the Federal Government, to eliminate the Government's direct competition with the private sector. This amendment would in fact do very serious damage to the FAIR Act. The amendment, for the first time, would mandate the Federal Government compete with the private sector. The Kennedy amendment would drastically grow Government workers. Page 12 of the amendment allows for unrestricted growth. I can hardly understand why anyone would offer such an amendment in this wartime situation where the numbers are very difficult in the military.

Furthermore, as we have mentioned, the amendment would increase costs to the Department by over \$200 million, which would complicate the process. So it is basically a step backwards in terms of what we have been seeking to accomplish over a period of time. I think the goals that have been out there have been shared by both Democrat and Republican administrations. The movement was forward in the last administration, slowed at the end, but now we have more movement in this administration than in the past to move toward private-sector activities. The administration is opposed to this amendment, and a similar amendment was offered in the House of Representatives and was defeated in the same authorization bill.

I hope we can take a long look at what this means in terms of the principles we have established in the past and are seeking to continue to establish.

I yield the floor.

The PRESIDING OFFICER (Ms. STABENOW). The Senator from Nevada.

Mr. REID. Madam President, this is a very important bill, the Defense authorization.

I ask if there is an order in effect as to how debate will be handled for the rest of the evening.

The PRESIDING OFFICER. Senator KYL is to be recognized, and following his speech there will be a period of morning business.

Mr. REID. Senator KYL is not here, so I ask unanimous consent to speak on the bill.

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

Mr. REID. We talk a lot about the national defense of this country, and rightfully so. There is something happening today in America that necessitates our attention. It deals also with the national security; that is, what are we going to do about passenger rail service in this country? That is part of the security of this country. We are dismal failures if we let this country have no passenger rail service. If there were ever an opportunity to talk about how it is important we have a good passenger rail service, it is now, during this time of terrorism.

What has happened since September 11? Passengers have boarded the Amtrak trains 47 percent more than they did before September 11. Why? Because they feel more secure in a train than in a plane.

Every place in the world where they have train service it is subsidized by the Government. It is interesting to note when Amtrak came into being in 1970 it was done so because the private sector could not make any money hauling people.

I come from Las Vegas, NV—the tourist destination, some say, of the world. Las Vegas is separated by 250 miles from Los Angeles. The two airports—Los Angeles International and McCarran Field, Las Vegas—have more people coming into them than any airport in the country—more than O'Hare. We are the sixth busiest airport as far as takeoffs and landings in America. As far as people coming into the airport each day, the only airport with more people is Los Angeles International.

The airports in Las Vegas and Los Angeles are jammed. The freeway between Los Angeles and Las Vegas is jammed, I-15. We need a passenger rail service.

What are we talking about doing? Going out of business, instead of increasing travel between Los Angeles and Las Vegas, the two busiest airports. Rather than relieve congestion, we are talking about going out of business. That is disgraceful.

Mrs. BOXER. Will the Senator yield for a question?

Mr. REID. I am happy to yield to the Senator.

Mrs. BOXER. I am very pleased my friend has raised this issue of Amtrak rail passenger service in this country, a system owned by the American people. I am glad to see one of our leaders on this issue on the floor, Senator CARPER. He and Senator BIDEN have been extraordinary on this issue.

I am here to join because a lot of people think it is just a Northeast issue. If you look at California—and we are highly impacted—in the year 2001 we had 8 million passenger trips in California related to Amtrak.

My friend is right on the issue of national security. But it is not only national security, which is huge; it is also economic security for our people.

Mr. REID. And I respond to my friend, economic security is national security.

Mrs. BOXER. Absolutely. Right now, I am very concerned about a doubledipper recession. I am very concerned we may have real problems in this country with unemployment. We see what is happening in the last 17 months since this administration took over, and what is happening to the crime rate. It is going up. One of the reasons it is going up, experts say, is that the economy is bad. We know we are not spending money to put cops on the beat. That hurts.

We have a quality-of-life situation and it is spiraling out of control.

I say to my friend, on all fronts, this is a national security issue, whether or not we say we want to have a rail system as does every other great nation in the world. We are playing around with this issue and it has to stop. It is bad management on the part of this administration to be taking us to the 11th hour on this deal. We could have thousands of people unemployed, thousands of people stranded, who cannot get to work, shutting down a system that could be a backup to our air system, especially at a time of terrorist threats.

My question to my friend is this: Is it true this Congress voted to give \$15 billion to the airlines, \$5 billion of that in a direct check, and then loan guarantees for the rest because we believe it is very important to our economy, to our national security, to keep travel going? Is it not ironic that when the people's own train system needs \$200 million to keep it going, we cannot get a direct answer from this administration, and they are taking it to this 11th hour?

Mr. REID. I respond to the distinguished Senator from California, the neighbor of the State of Nevada, yes, we did give money to the airlines. I am glad we did. We provided money to help them stay in business. We still have a large pot of money to which airlines can apply.

I say to my friend from California, we help airlines every day, airports every day. Highways are Federal construction. Ninety percent of the construction that takes place in Nevada and California is Federal money; 8 million passenger rides in California last year with Amtrak. If the system were better, it would be triple. There could be 24 million passengers in that largest State in the Union.

We have such an antiquated system in most places we cannot run high-speed rail. I do not apologize for my support for Amtrak. Nevada does not get a lot of benefit. I hope we get more in the year to come. If it closes down, we certainly will not.

I have heard people ask: What benefit do I get out of Amtrak? The State of California and the State of Nevada have the Hoover Dam which was built in the 1930s with Federal dollars. Those Federal dollars do not help much of the rest of the country. They help California, Arizona, and Nevada principally. But it is a great program that

the taxpayers helped to provide that is good for our country. Amtrak is good for our country.

How can we have a country, which we all love so much, the only superpower left in the world, and not have a passenger rail service? We should be embarrassed about the passenger rail service we have today. It is pretty bad. But we love it. We want to make it better.

I say to the administration, if they are listening: Fine, if you want to bail us out with a few million dollars to keep us going, that is fine, but that will not do the trick. We need a long-term plan for Amtrak, a plan that spends money in improving the tracks.

I am in favor of high-speed rail between California and Nevada, between Los Angeles and Las Vegas. It would increase productivity, it would alleviate the burden at our airports and on our highways, and make a more productive society.

I appreciate the statements of the Senator from California. I see my friend from Delaware in the Chamber. He has been a leader in this field.

I appreciate their interest and support for this program that people are trying to let die. I feel so bad about that.

Mrs. BOXER. I say to my friend and my colleagues who may be listening, during wartime I remember a bumper sticker that said "Imagine Peace." It was a pretty simple thing, but you really have to think what something could be.

We could really imagine this country connected by a rail system that serves all our people. What an improvement in the quality of life; what an improvement in the economy; what an improvement in air quality; what a better way for us to go when we are competing for economic dollars. This is an efficiency plan.

So whether it is the economy or national security, we do need some bold leadership. I am glad my friend raised this issue. We certainly have it from my friend from Delaware. I am glad he is on the floor tonight. I am going to do everything I can. Our State of California puts a lot of money into our rail system. We step to the plate and match these dollars. We don't want to see Amtrak go away. It would be a disaster for many areas of my great State.

I thank my friend for yielding.

Mr. REID. Madam President, notwithstanding the order that is now in effect that Senator KYL would be recognized and we would then go into a period of morning business, I ask unanimous consent the Senator from Delaware be allowed to speak on the Defense bill which is now before us.

The PRESIDING OFFICER. Is there objection?

Mr. THOMAS. I object to that.

The PRESIDING OFFICER. Objection is heard.

Mr. REID. Madam President, I ask unanimous consent the Senator from Delaware be recognized to speak as in morning business.

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

#### AMTRAK

Mr. CARPER. Madam President, I do not believe any of the Senators who are on the floor at this time were serving in the House or the Senate when Amtrak was created. It was created in 1970 and it was created after an extended debate which found none of the private railroads in this country wanted to continue to provide passenger rail service. They wanted out of the business and they got out. They convinced the Congress and then the President, Richard Nixon, that they should be able to buy stock in this entity called Amtrak, they should turn over a lot of their rolling stock—their locomotives and their passenger cars or dining cars, the whole Northeast corridor from Washington to Boston, repair shops, train stations—to this new entity, Amtrak, to see if they could make it go as a quasi-governmental entity whereas for years the private sector had not been able to make a go of it.

Lo and behold, 32 years later Amtrak has not been able to figure out how to make money, how to make a profit doing what the private railroads could not make a profit doing in the 1970s or 1960s or the years before that; that is, carrying people.

Last Thursday here on the floor I talked a bit about all those other countries around the world that offer terrific passenger train service, whether it is Britain or France or Spain or Italy, Scandinavia or Germany—or over the other side of the world, Asian countries such as Japan, where people can go in trains that run at 200 miles an hour and can actually write on the trains and people can read your writing—something no one is able to do with mine when I ride the rails with Amtrak. They can put a cup of coffee on the table and the coffee is still like it would be on this table before me.

The reason why they have such good train service in those countries is because they make it a national priority. They believe it is in their national interest to have good passenger rail service.

Some of those countries are more densely populated than our own, but as time goes by we are becoming more densely populated, too. I said last week that some 75 percent of Americans today live within 50 miles of one of our coasts. As time goes by, we are going to become more densely populated. Those dense populations provide for a number of problems: congestion on our highways, congestion in our airports, the fouling of our air. As we all climb into our cars, trucks, and vans to go from one place to the other and then fill them up with gas, we import a lot of the oil we refine into gasoline and we end up with a huge trade deficit, about a third of which is attributable to imported oil.

Part of the reason so many of those other countries put so much of their