

The U.S. runs the risk of losing the Korean market within a decade if we cannot get a free trade agreement ratified.

Let me repeat what he said: Within a decade, we lose this market.

Those reports also warned that South Korea was likely to complete a free-trade agreement with the European Union by January of next year. Well, here we are 3 months later, and that is exactly what has happened.

Most recently, upon announcing the new agreement just last week, South Korea's Ministry of Foreign Affairs and Trade released a statement saying that their deal with the EU "will bring about economic benefits more than a free trade pact signed with the United States." You see, they signed this agreement 3 months ahead of schedule, and our trading partners look at all of the dithering, and they are ready to move forward without us.

We should enact our pending trade agreement with South Korea as well as the pending trade agreements with Colombia and Panama as quickly as possible. Increasing our market share in countries around the world will provide greater opportunities for our businesses, allowing them to expand their operations and to hire more people right here at home. You can translate foreign trade to real jobs for real people in this country who are looking for work. This would help get our economy moving again. But for that to happen, the Obama administration must send Congress the pending agreements for an up-or-down vote. That is the next step. That has been the next step for months and months. The President must simply send the agreements for approval.

Unfortunately, when it comes to the pending trade agreements, what we have seen from this administration has been a lot of talk but no action. If you listen to the President's own words, you would think the administration just can't wait to submit the agreements to Congress. Just last week, President Obama said he would like to see congressional approval of the Korean agreement as soon as possible. That is not the first time he has made those statements. Going all the way back to the State of the Union Address in January, President Obama said the following:

We have to seek new markets aggressively just as our competitors are. If America sits on the sidelines while other nations sign trade deals, we will lose the chance to create jobs on our shores.

The President was right about that when he said that so many months ago. In fact, it bears repeating. In the President's own words:

If America sits on the sidelines while other nations sign trade deals, we will lose the chance to create jobs on our shores.

So the President of the United States is on record saying that the pending trade agreements would create jobs. They would. But these words ring hollow when you do not follow up with action.

As the U.S. unemployment rate has hovered around 10 percent for most of this year, my question is and I think the question of this nation is, What are we waiting for? Why are we waiting? There is no silver bullet here, but our pending trade agreements would be enormously helpful. They would be the absolute right step in the right direction. You see, when roughly 95 percent of the world's consumers live outside the United States, the global marketplace represents unrivaled opportunities. But, unfortunately, while the Senate has spent most of this year on a massive spending spree, three measures that even the President admits will create jobs are withering on the vine. Our businesses and job creators watch as their global competitors simply run by them. They are sitting on the sidelines faced with uncertainty and high tariffs that bar their entry in any reasonable way to the foreign marketplace, uncertainty about new regulations, uncertainty about our economic recovery, uncertainty about this administration's commitment to these trade agreements.

The lack of any kind of coherent position from the White House is a serious part of the problem. Yes, I have heard the speeches. The President says he wants action. He started saying it a long time ago. Yet he takes no action. I would like to know where this administration stands. The agreements are signed and ready. The ball is in the administration's court. If the President has no intention of sending these agreements to us, say so. Let the American public know this.

Taking action could not be easier: simply drop the agreements in the mail to Congress or have somebody walk them over here. The rest of the world is not wasting any time taking advantage of the opportunities and benefits provided by expanded trade. You see, they need jobs too. And they see the world's population and say: Why would we not want to sell our products to those people? Meanwhile, the United States is depriving our businesses of new markets, our people of jobs and new opportunities. And it delays economic recovery while, unfortunately, our competitors gain the upper hand.

If the President is serious about enacting trade deals to create new jobs, I am ready to work with him. I have said that over and over. I will come to the floor and speak on behalf of these agreements, and I know many of my colleagues are ready to do the same.

I urge the President to send the trade agreements to Congress once again for a "yes" vote.

I yield the floor, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### DEFENSE AUTHORIZATION

Mr. GRAHAM. Mr. President, I rise to speak about the upcoming vote tomorrow at 2:15 on the Defense authorization bill. I don't know the state of play, but it looks as though we will bring to the floor a Defense authorization bill without any ability to amend the bill beyond a very limited set of amendments. If one is watching the political discourse at the moment, they would not realize we are at war in two different theaters and that Iran is pursuing a nuclear weapon, and that maybe a year from now they will have one. We are talking about domestic politics and spending. That is good. But what is equally important is national security.

The Defense authorization bill is coming to the Senate floor tomorrow, and we have a don't ask, don't tell policy change within the bill that basically says we are going to change the law that would get rid of don't ask, don't tell; a policy that has worked very well, that we would receive input from the military, and we are going to change the law before we ask our men and women in uniform about their opinion. That is a huge mistake. We were told last year there would be a study among all the services about the effect of don't ask, don't tell on recruiting and retention and how it would affect the Armed Forces.

Before we can get the study done, I think the Congress is going to repeal the law because our Democratic friends believe in the fall there will be more Republicans. So they are going to try to do it now. We should not repeal don't ask, don't tell until we get input from our men and women who are serving. That is one thing that is driving this bill.

The DREAM Act is a piece of legislation that would give legal status to young children who were brought into the country illegally, brought here as children as illegal immigrants. They have lived most of their lives here. It would allow them to go to school under State tuition. It would give them legal status. That is an issue that needs to be talked about in terms of comprehensive immigration reform, not the Defense authorization bill.

If someone were listening to the debate on the Defense authorization bill, they would believe the biggest national security threats we face are abortions in military hospitals, the DREAM Act, which has to do with citizenship for young illegal immigrants, and don't ask, don't tell. We are not talking about what happens if Iran gets a nuclear weapon, how we win in Afghanistan, or what we need to do to get Iraq right. We are on the 10 yard line, but we are not there yet.

I have an amendment I would like to offer to the body that would get 99

votes. It says stop reading terrorists their Miranda rights. This is not crime we are fighting. We are fighting a war. I don't believe in torture; I believe in living within our values. But there is a difference between a law enforcement activity and fighting a war.

When we capture a terrorist who just tried to blow up an airplane over Detroit, the last thing we need to do is read them their Miranda rights. We should take them off the airplane, turn them over to the military, the CIA, and let them be questioned about future attacks within our values—not torture but firmly and effectively asked about intelligence.

The moment we read somebody their Miranda rights, we go into the area of law enforcement. We are fighting a war, not a crime. I have a bill that would change our habeas review process where an enemy prisoner is allowed to go to Federal court under Supreme Court holdings, and when they go to court, the habeas review doesn't have any uniform standards. In one case they let the guy go because the government couldn't prove he was a member of al-Qaida on the day he was captured. But they could prove without a doubt that he had trained with al-Qaida, swore an oath to al-Qaida right after 9/11. The burden should be on the enemy combatant to prove they are not a member of al-Qaida once we have established they were at some point in time.

The whole habeas review system needs to be looked at. Our judges are crying out for some congressional involvement to give them uniform standards.

We have 48 people in prison at Guantanamo Bay held for years without trial. Under the law of war, we can hold an enemy prisoner indefinitely without trial because it is part of a war. Under domestic criminal law, we have to charge somebody with a crime or let them go. That is a dilemma we should not face. If someone is being held as an enemy combatant, there ought to be a legal process to make that determination with an annual review. I would like to create that legal process. I would like to create some rational legal system that recognizes we are at war, not fighting a crime. But the only thing I can talk about is don't ask, don't tell and the DREAM Act. This is ridiculous.

We have men and women in harm's way. This Nation is under siege. We have not adjusted our laws since 9/11 to be at war within our values. The extremes can't be the norm. The choice between waterboarding and the Army Field Manual in terms of interrogation should not be the two choices. The CIA today is out of the interrogation business. The Executive order issued by President Obama denies the CIA the ability to use enhanced interrogation techniques that this body passed under the Detainee Treatment Act, so the CIA is basically an organization without any ability to question someone. If

we capture terrorists tomorrow, where will we put them? Guantanamo Bay hadn't been used in years. We are a nation without a jail. These are big issues that need to be addressed in a comprehensive fashion.

The Defense authorization bill is the natural venue. But under the process before the Senate, it is being shut down, and the Defense authorization bill is no longer a vehicle to deal with defense matters. It is now a political checklist before the November elections. The Hispanic community, check; they got a vote on the DREAM Act.

Mr. MCCAIN. Will the Senator yield for a question?

Mr. GRAHAM. Absolutely.

Mr. MCCAIN. Is it the understanding of the Senator from South Carolina that we would be taking up the DREAM Act which, if going through the regular process, would go to the Judiciary Committee, and the don't ask, don't tell issue and perhaps something about secret holds, and then go off of the bill until after the elections in a very constrictive timeframe of a lameduck session?

What is the Senator's view about what the priorities of the leadership are? Is it political? Why else would we take up only certain amendments and then move off a bill that would then re-surface possibly for some truncated period after the election? What is that all about?

Mr. GRAHAM. Sherlock Holmes said what is left on the table, when you rule everything out, is the answer. It makes no sense to me for us to bring the Defense authorization bill to the floor of the Senate at any time where the Senator from Arizona and I cannot offer an amendment about how we try a terrorist. Should Khalid Sheikh Mohammed be given a Federal court right? Should he be put in New York City or any other Federal court and tried as a normal criminal, or should he be tried in a military court as an enemy combatant?

These are big issues. Under the construct created—and the reason I will vote no when I would normally vote yes—I cannot offer amendments. We are going to be voting on the DREAM Act. The DREAM Act is a hot topic in the immigration world but not very hot among our troops.

I have been to Afghanistan and Iraq numerous times. I haven't had one soldier or airman or sailor or marine or Coast Guard member ask me about the DREAM Act. They want to know are they going to get paid more and do they have the tools to win the war. This is politics at its worst, may I say.

As a Republican, I stand here knowing our party has probably abused power in the past but not like this. This, to me, is going to a new level. We are in two wars. Iran is on the verge of making a breakthrough on the nuclear weapons front. We have a Defense bill where we can't amend it to talk about the war on terror or about legal changes—stop reading terrorists their

Miranda rights. We will be voting on the DREAM Act which is checking a block. We will be voting on don't ask, don't tell in a way in which I think is offensive to the men and women who serve.

The Senator was promised last year, as the ranking member, when he asked the question, that our men and women would give us input before the administration would move to change don't ask, don't tell. That has all been turned upside down. The law is now that it will be repealed and we ask later.

This idea about secret holds in the Senate, that is probably an internal matter that needs to be resolved but not on Defense authorization. The answer is, this is politics.

Mr. MCCAIN. If we do address the issue on the Defense authorization bill or if we were addressing the issue, would it be more appropriate to assess the impact on battle effectiveness and morale on the men and women serving and then arrive at a decision as to whether that legislation or any other legislation, although this is very important legislation, should be repealed? Instead, isn't it true the construct of the way it went through the Armed Services Committee is that the three individuals who support repeal—the President, who made a political promise; the Secretary of Defense, whom we admire; and the Chairman of the Joint Chiefs of Staff—will make a determination as to whether the study has been completed sufficiently to ensure the repeal of don't ask, don't tell without difficulty as opposed to taking a survey, finding out about the impact on morale and battle readiness and then make a determination?

Also, according to this process set up in the Armed Services Committee, the four service chiefs—Army, Navy, Marine Corps, Air Force—are left out of the decisionmaking. Why? Because they have called for exactly what I was just describing, which is a study to assess the impact on morale and effectiveness prior to repeal. In other words, in this instance, the fix is in.

Mr. GRAHAM. The Senator makes a good point. He has been ranking member. Obviously, his military record is well known. He was promised—I took it as a promise—last year that we would not change don't ask, don't tell until we got input from those who serve our country in uniform. That process is ongoing. But now the law we are expected to vote on tomorrow changes don't ask, don't tell. It completely reverses that policy but allows us to get input later. That is quite offensive. We know there isn't going to be a snowball's chance in hell they are actually going to listen to what the men and women say because the whole goal is to get that vote for a specific constituency.

Special interest groups are dominating this bill unlike any time before. We have changed the law about abortions in military hospitals, we have the DREAM Act which has zero to do with

national defense, and now we have a major change in don't ask, don't tell in a way that is contrary.

I spoke to the incoming Commandant of the Marine Corps who will be up for a vote soon. He said he was very concerned about making this change now. We are in two wars. There is a lot going on in the world. This is a major social change. He thinks it would be smart to listen to the marines and other servicemembers before we make the change. If the bill becomes law, we will not have done that. That is a huge mistake.

I thank the Senator from Arizona for his leadership to make sure the men and women in uniform are heard from before Congress acts.

Mr. MCCAIN. One more question: The issue is the proposal to include the so-called DREAM Act. I think every Member of Congress, every American citizen has some sympathy for individuals who were brought to this country without making the decision to do so, not forgetting that the people who brought them to this country were breaking our laws when they did so. Isn't it also true that if we address the DREAM Act or other parts of comprehensive immigration reform before securing the borders, then 1, 2, 5, 10 years from now we will be faced with another generation of young people who were brought here against their will who have a compelling story to tell?

In other words, isn't the moral of this story—to harken back to the 1980s—under our beloved Ronald Reagan we gave amnesty to a couple million people, and they said they would secure the borders, and we ended up with 12 million people who were here illegally? So isn't that the situation we all want to remedy, but we want to make sure we do not have to remedy it again?

Mr. GRAHAM. I say to the Senator, his point is well taken. If the DREAM Act is not considered part of comprehensive immigration reform, it will be a huge mistake. The reason we have 12 million people here illegally in our country is because you can get to America pretty easily illegally, obviously. You can walk across the street in some places. So you have to control the border.

Visa overstays are 40 percent of the illegal immigration problem. If you do not do that, then you are never going to stop the third wave of illegal immigration. You have to deal with why they come: to get jobs. We need better employer verification. We need a temporary worker program so employers can hire people in a win-win situation, where people from other countries can come here and work, make some money, and go back home. It helps us; it helps them. That is what you need to do with immigration, comprehensive reform.

The DREAM Act is about November politics. It is an emotional topic that if you did it in isolation would be undercutting comprehensive reform. Certainly it has nothing to do with defense

authorization. It is trying to check a block.

For the people who came to my office last week who were literally praying that I would vote for the DREAM Act in the Defense authorization bill, you are certainly being used and abused, in my view. This is an emotional topic, and at the end of the day, all I can tell you is, this is not a way to change immigration. This is not comprehensive immigration reform. This is not good defense policy. This is just sheer, raw politics at a time when we could do better and should do better.

I yield the floor.

#### CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

#### NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2011—MOTION TO PROCEED

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the motion to proceed to S. 3454, which the clerk will report.

The bill clerk read as follows:

Motion to proceed to the bill (S. 3454) to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Mr. LEVIN. Mr. President, we have enacted a National Defense Authorization Act every year for the last 48 years, and we need to do the same this year. I hope we can at least make some progress during the next few days and weeks on this bill.

This year's bill would continue the increases in compensation and quality of life that our service men and women and their families deserve as they face the hardships imposed by continuing military operations around the world.

For example, the bill would extend over 30 types of bonuses and special pays aimed at encouraging enlistment, reenlistment, and continued service by Active-Duty and Reserve military personnel.

The bill would authorize continued TRICARE coverage for eligible dependents of servicemembers up to age 26.

The bill would improve care for our wounded warriors by addressing inequities in rules for involuntary administrative separations based on medical conditions and requiring new education and training programs on the use of pharmaceuticals for patients in wounded warrior units.

The bill would authorize and allow the waiver of maximum age limitations to enable certain highly qualified enlisted members who served in Operation Iraqi Freedom or Operation En-

during Freedom to enter the military service academies.

The bill also includes important funding and authorities needed to provide our troops the equipment and support they will continue to need as long as they remain on the battlefield in Iraq and Afghanistan.

For example, the bill would enhance the military's ability to rapidly acquire and field new capabilities in response to urgent needs on the battlefield by expanding the authority of the Department of Defense to waive statutory requirements when urgently needed to save lives on the battlefield.

The bill would fully fund the President's request to train and equip the Afghan National Army and Afghan Police—growing the capabilities of these security forces to prepare them to take over increased responsibility for Afghanistan's security.

The bill would extend for another year the authority for the Secretary of Defense to transfer equipment coming out of Iraq as our troops withdraw to the security forces of Iraq and Afghanistan, providing through that transfer an important tool for our commanders looking to accelerate the growth of these security forces.

The bill contains a number of provisions that will help improve the management of the Department of Defense and other Federal agencies.

For example, the bill would require the Department of Defense to establish a comprehensive process for evaluating and addressing urgent operational needs identified on the battlefield.

The bill would address shortcomings in the management of private security contractors in Iraq and Afghanistan by making contractors expressly responsible for the conduct of their sub-contractors and establishing specific contractual remedies for failures to comply with the requirements and directives.

The bill would require the Department of Defense to establish acquisition baselines for the Missile Defense Agency's programs and provide annual reports to Congress on progress toward achieving those baselines.

The bill also includes important legislative provisions that would promote DOD's cybersecurity and energy security efforts—two important initiatives that would help strengthen our national defense and our Nation.

This bill does include a handful of contentious provisions on which there is disagreement in the Senate. These provisions were debated in committee. I expect them to be debated again on the Senate floor, if we can proceed tomorrow, as I hope we can. We are going to have votes on a number of those issues and other contentious issues, and the Senate will work its will if we are allowed to get to the point where we can debate this bill.

One of the issues which has been raised is whether amendments should be offered or are offerable to this bill, such as the DREAM Act, which are not