

112TH CONGRESS
1ST SESSION

S. 944

To reaffirm the authority of the Department of Defense to maintain United States Naval Station, Guantanamo Bay, Cuba, as a location for the detention of unprivileged enemy belligerents held by the Department of Defense, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 11, 2011

Ms. AYOTTE (for herself, Mr. GRAHAM, Mr. LIEBERMAN, Mr. CHAMBLISS, Mr. BROWN of Massachusetts, Mr. RUBIO, and Mr. WEBB) introduced the following bill; which was read twice and referred to the Committee on Armed Services

A BILL

To reaffirm the authority of the Department of Defense to maintain United States Naval Station, Guantanamo Bay, Cuba, as a location for the detention of unprivileged enemy belligerents held by the Department of Defense, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Detaining Terrorists
5 to Secure America Act of 2011”

1 **SEC. 2. FINDINGS.**

2 Congress makes the following finding:

3 (1) The United States and its international
4 partners are in an armed conflict with violent
5 Islamist extremist groups, including al Qaeda and
6 associated terrorist organizations, that are com-
7 mitted to killing Americans and our allies.

8 (2) In the last 2 years, terrorists have repeat-
9 edly attempted to kill Americans both here at home
10 and abroad, including the following attacks, plots, or
11 alleged plots and attacks:

12 (A) A September 2009 plot by Najibullah
13 Zazi—who received training from al Qaeda in
14 Pakistan—to conduct a suicide bomb attack on
15 the New York, New York, subway system.

16 (B) A November 2009 attack by Nidal
17 Malik Hasan at Fort Hood, Texas, that killed
18 13 people and wounded 32.

19 (C) A Christmas Day 2009 attempt by
20 Umar Farouk Abdulmutallab to detonate a
21 bomb sewn into his underwear on an inter-
22 national flight to Detroit, Michigan.

23 (D) A May 2010 attempt by Faisal
24 Shahzad to bomb Times Square in New York,
25 New York, on a crowded Saturday evening, an

1 attack that was unsuccessful only because the
2 car bomb failed to detonate.

3 (E) An October 2010 attempt by terrorists
4 in Yemen to send, via commercial cargo flights,
5 2 packages of explosives to Jewish centers in
6 Chicago, Illinois.

7 (F) A February 2011 plot by Khaled
8 Aldawsari, a Saudi-born student, to manufac-
9 ture explosives and potentially attack New
10 York, New York, the Dallas, Texas, home of
11 former President George W. Bush, as well as
12 hydroelectric dams, nuclear power plants, and a
13 nightclub.

14 (3) Since the September 11, 2001, attacks on
15 our Nation, the United States and allied forces have
16 captured thousands of individuals fighting for or
17 supporting al Qaeda and associated terrorist organi-
18 zations that do not abide by the law of war, includ-
19 ing detainees at United States Naval Station, Guan-
20 tanamo Bay, Cuba, who served as planners of those
21 attacks, trainers of terrorists, financiers of terror-
22 ists, bomb makers, bodyguards for Osama bin
23 Laden, recruiters of terrorists, and facilitators of
24 terrorism.

1 (4) Many of the detainees at United States
2 Naval Station, Guantanamo Bay provided valuable
3 intelligence that gave the United States insight into
4 al Qaeda and its methods, prevented terrorist at-
5 tacks, and saved lives.

6 (5) Intelligence obtained from detainees at
7 United States Naval Station, Guantanamo Bay was
8 critical to eventually identifying the location of
9 Osama bin Laden.

10 (6) In a February 17, 2011, hearing of the
11 Committee on Armed Services of the Senate, the
12 Secretary of Defense confirmed that approximately
13 25 percent of detainees released from the detention
14 facility at United States Naval Station, Guantanamo
15 Bay are confirmed to have reengaged in hostilities or
16 are suspected of having reengaged in hostilities
17 against the United States or our allies.

18 (7) Al Qaeda in the Arabian Peninsula, an or-
19 ganization that includes former detainees at United
20 States Naval Station, Guantanamo Bay among its
21 leadership and ranks, has claimed responsibility for
22 several of the recent plots and attacks against the
23 United States.

24 (8) Detention according to the law of war is a
25 matter of national security and military necessity

1 and has long been recognized as legitimate under
2 international law.

3 (9) Detaining unprivileged enemy belligerents
4 prevents them from returning to the battlefield to
5 attack United States and allied military personnel
6 and engaging in future terrorist attacks against in-
7 nocent civilians.

8 (10) The Joint Task Force-Guantanamo pro-
9 vides for the humane, legal, and transparent care
10 and custody of detainees at United States Naval
11 Station, Guantanamo Bay, notwithstanding regular
12 assaults on the guard force by some detainees.

13 (11) The International Committee of the Red
14 Cross visits detainees at United States Naval Sta-
15 tion, Guantanamo Bay on a quarterly basis.

16 (12) The detention facility at United States
17 Naval Station, Guantanamo Bay benefits from ro-
18 bust oversight by Congress.

1 **SEC. 3. REAFFIRMATION OF AUTHORITY TO MAINTAIN**
2 **UNITED STATES NAVAL STATION, GUANTA-**
3 **NAMO BAY, CUBA, AS A LOCATION FOR THE**
4 **DETENTION OF UNPRIVILEGED ENEMY BEL-**
5 **LIGERENTS HELD BY THE DEPARTMENT OF**
6 **DEFENSE.**

7 (a) REAFFIRMATION OF AUTHORITY AS LOCATION
8 FOR DETENTION OF UNPRIVILEGED ENEMY BELLIGER-
9 ENTS.—United States Naval Station, Guantanamo Bay,
10 Cuba, is and shall be a location for the detention of indi-
11 viduals in the custody or under the control of the Depart-
12 ment of Defense who have engaged in, or supported, hos-
13 tilities against the United States or its coalition partners
14 on behalf of al Qaeda, the Taliban, or an affiliated group
15 to which the Authorization for Use of Military Force (Pub-
16 lic Law 107–40) applies.

17 (b) MAINTENANCE AS AN OPERATIONAL FACILITY
18 FOR DETENTION.—The Secretary of Defense shall take
19 appropriate actions to maintain United States Naval Sta-
20 tion, Guantanamo Bay, Cuba, as an open and operating
21 facility for the detention of current and future individuals
22 as described in subsection (a).

23 (c) PERMANENT EXTENSION OF CERTAIN LIMITA-
24 TIONS RELATING TO DETAINEES AND DETENTION FA-
25 CILITIES.—

1 (1) LIMITATION ON TRANSFER OF DETAINEES
2 TO FOREIGN ENTITIES.—Section 1033(a)(1) of the
3 Ike Skelton National Defense Authorization Act for
4 Fiscal Year 2011 (Public Law 111–383; 124 Stat.
5 4351) is amended by striking “during the one-year
6 period” and all that follows through “by this Act”
7 and inserting “the Secretary of Defense may not use
8 any amounts authorized to be appropriated”.

9 (2) PROHIBITION ON CONSTRUCTION OF DE-
10 TENTION FACILITIES IN UNITED STATES.—Section
11 1034(a) of such Act (124 Stat. 4353) is amended by
12 striking “None of the funds authorized to be appro-
13 priated by this Act” and inserting “No funds au-
14 thorized to be appropriated or otherwise made avail-
15 able to the Department of Defense, or to or for any
16 other department or agency of the United States
17 Government,”.

18 (d) SUPERSEDURE OF EXECUTIVE ORDER.—Sections
19 3, 4(c)(2), 4(c)(3), 4(c)(5), and 7 of Executive Order No.
20 13492, dated January 22, 2009, shall have no further
21 force or effect.

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