stood out for me was the levee systems in Montana, Arizona, and California. A lot of these are levees, dikes, and dams that are different from the river levees that we see. But look at Pittsburgh, New York, North Dakota, Montana, Washington. There is not a place in this country—not on the coast, not on the interior—that doesn't have a threat of flooding. Either a levee can break, a dam can break, a river can overflow, or there can be flash flooding because of droughts. Even in Texas where there is a lot of flash flooding. So not only on the coast, but inland as well, in Kansas.

The conclusion is this is a real challenge for our whole Nation. We have a bill led by Senator MENENDEZ and Senator ISAKSON that costs and scores zero. We have written this bill in a way that just postpones these draconian rate increases so we can take a little more time to study it, do some modeling, and get it right. This bill was passed with very good intentions, but prematurely, without the data we need to make smart decisions for our communities. This is giving us time to get it right. There is zero cost the way this bill is structured.

Again, I appreciate the courtesies of our leader managing this bill on the floor.

I yield back the remainder of my time.

## RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:48 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Ms. BALDWIN).

## NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2014—Continued

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Madam President, I ask unanimous consent the time until 4 p.m. be for debate only, with the time being equally divided and controlled between the two leaders or their designees.

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

Mr. LEVIN. Madam President, I hope Members will now come down and debate, particularly if we can start off again with the legislation on Guantanamo. There will be two amendments here. One will be an amendment by Senator AYOTTE and the other one would be an amendment by myself, with Senator MCCAIN. It will be a Levin-McCain amendment. I hope those who are interested in this subject particularly would come down between now and then and we can perhaps even reach a vote on Guantanamo, the two amendments, side-by-side, even later this afternoon. That is the goal. It is not part of the unanimous consent proposal, but that would be a goal.

I know my friend from Oklahoma and I are able to work things out most often, and we will try to figure out a way to hopefully get to a vote on two amendments which I think everybody agrees, not on the outcome of the vote, but agrees need to be debated and resolved.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Madam President, first of all, let me say I appreciate all the help the chairman has given us during the course of this very difficult time. I also suggest we have gone through this same thing other years in the past.

One of the things is there are so many people demanding or wanting to have a system where we could have more amendments. I encourage anyone who has amendments to go ahead and send them to the floor. It doesn't do any good to talk about them unless you have them down here and in front of us. Then I hope the chairman and I could get together and we could have, actually, more amendments. Those people who want to be heard on this, we have adopted this timing, so we encourage you to come down and be heard.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Madam President, I thank my friend from Oklahoma because he has said what needs to be said here, which is that we welcome amendments being brought to the floor. We will do our best to try to clear those amendments, which means obviously consulting with not just the sponsors but potential opponents to try to see if we can work things out. On this bill we have always been able to work out amendments, sometimes as many as 100. We need to have votes on this bill, but we also can clear amendments. We work together on a bipartisan basis to do that.

I join in his request that Senators who have amendments get them to us to see if we can possibly work them out. We simply must finish this bill this week. The timetable is such that if we are going to finish this bill, as we have for 51 straight years, we have to get this bill to conference. That, in and of itself, will take a week. Then we have to bring the conference report back, if we can reach an agreement on it, to both Houses, and that will take as much as a week as well under the rules, so we really need the cooperation of every Member of this body.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. WICKER. Madam President, I rise at this point to discuss Wicker amendment No. 2185. This is an important amendment. I hope the leadership of this committee is paying attention. My amendment would prohibit foreign governments from constructing, on U.S. soil, satellite positioning and ground monitoring stations. I think many Americans were surprised when, on November 16, the New York Times published an article by Michael Schmidt and Eric Schmitt entitled ''A Russian GPS Using U.S. Soil Stirs Spy Fears.''

I ask unanimous consent a copy of this article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Nov. 16, 2013]

### A RUSSIAN GPS USING U.S. SOIL STIRS SPY FEARS

(By Michael S. Schmidt and Eric Schmitt)

WASHINGTON.—In the view of America's spy services, the next potential threat from Russia may not come from a nefarious cyberweapon or secrets gleaned from the files of Edward J. Snowden, the former National Security Agency contractor now in Moscow.

Instead, this menace may come in the form of a seemingly innocuous dome-topped antenna perched atop an electronics-packed building surrounded by a security fence somewhere in the United States.

In recent months, the Central Intelligence Agency and the Pentagon have been quietly waging a campaign to stop the State Department from allowing Roscosmos, the Russian space agency, to build about half a dozen of these structures, known as monitor stations, on United States soil, several American officials said.

They fear that these structures could help Russia spy on the United States and improve the precision of Russian weaponry, the officials said. These monitor stations, the Russians contend, would significantly improve the accuracy and reliability of Moscow's version of the Global Positioning System, the American satellite network that steers guided missiles to their targets and thirsty smartphone users to the nearest Starbucks.

''They don't want to be reliant on the American system and believe that their systems, like GPS, will spawn other industries and applications,'' said a former senior official in the State Department's Office of Space and Advanced Technology. ''They feel as though they are losing a technological edge to us in an important market. Look at everything GPS has done on things like your phone and the movement of planes and ships.''

The Russian effort is part of a larger global race by several countries—including China and European Union nations—to perfect their own global positioning systems and challenge the dominance of the American GPS.

For the State Department, permitting Russia to build the stations would help mend the Obama administration's relationship with the government of President Vladimir V. Putin, now at a nadir because of Moscow's granting asylum to Mr. Snowden and its backing of President Bashar al-Assad of Syria.

But the C.I.A. and other American spy agencies, as well as the Pentagon, suspect that the monitor stations would give the Russians a foothold on American territory that would sharpen the accuracy of Moscow's satellite-steered weapons. The stations, they believe, could also give the Russians an opening to snoop on the United States within its borders.

The squabble is serious enough that administration officials have delayed a final decision until the Russians provide more information and until the American agencies sort out their differences, State Department and White House officials said.

Russia's efforts have also stirred concerns on Capitol Hill, where members of the intelligence and armed services committees view Moscow's global positioning network—known as Glonass, for Global Navigation Satellite System—with deep suspicion and are demanding answers from the administration.

''I would like to understand why the United States would be interested in enabling a GPS competitor, like Russian Glonass, when the world's reliance on GPS is a clear advantage to the United States on multiple levels,'' said Representative Mike D. Rogers, Republican of Alabama, the chairman of a House Armed Services subcommittee.

Mr. Rogers last week asked the Pentagon to provide an assessment of the proposal's impact on national security. The request was made in a letter sent to Defense Secretary Chuck Hagel, Secretary of State John Kerry and the director of national intelligence, James R. Clapper, Jr.

The monitor stations have been a high priority of Mr. Putin for several years as a means to improve Glonass not only to benefit the Russian military and civilian sectors but also to compete globally with GPS.

Earlier this year, Russia positioned a station in Brazil, and agreements with Spain, Indonesia and Australia are expected soon, according to Russian news reports. The United States has stations around the world, but none in Russia.

Russian and American negotiators last met on April 25 to weigh ''general requirements for possible Glonass monitoring stations in U.S. territory and the scope of planned future discussions,'' said a State Department spokeswoman, Marie Harf, who said no final decision had been made.

Ms. Harf and other administration officials declined to provide additional information. The C.I.A. declined to comment.

The Russian government offered few details about the program. In a statement, a spokesman for the Russian Embassy in Washington, Yevgeniy Khorishko, said that the stations were deployed ''only to ensure calibration and precision of signals for the Glonass system.'' Mr. Khorishko referred all questions to Roscosmos, which did not respond to a request for comment last week.

Although the Cold War is long over, the Russians do not want to rely on the American GPS infrastructure because they remain suspicious of the United States' military capabilities, security analysts say. That is why they have insisted on pressing ahead with their own system despite the high costs.

Accepting the dominance of GPS, Russians fear, would give the United States some serious strategic advantages militarily. In Russians' worst fears, analysts said, Americans could potentially manipulate signals and send erroneous information to Russian armed forces.

Monitor stations are essential to maintaining the accuracy of a global positioning system, according to Bradford W. Parkinson, a professor emeritus of aeronautics and astronautics at Stanford University, who was the original chief architect of GPS. As a satellite's orbit slowly diverges from its earlier prediction, these small deviations are measured by the reference stations on the ground and sent to a central control station for updating, he said. That prediction is sent to the satellite every 12 hours for subsequent broadcast to users. Having monitor stations all around the earth yields improved accuracy over having them only in one hemisphere.

Washington and Moscow have been discussing for nearly a decade how and when to cooperate on civilian satellite-based navigation signals, particularly to ensure that the systems do not interfere with each other. Indeed, many smartphones and other consumer navigation systems sold in the United States today use data from both countries' satellites.

In May 2012, Moscow requested that the United States allow the ground-monitoring stations on American soil. American technical and diplomatic officials have met several times to discuss the issue and have asked Russian officials for more information, said Ms. Harf, the State Department spokeswoman.

In the meantime, C.I.A. analysts reviewed the proposal and concluded in a classified report this fall that allowing the Russian monitor stations here would raise counterintelligence and other security issues.

The State Department does not think that is a strong argument, said an administration official. ''It doesn't see them as a threat.''

Mr. WICKER. This article elaborates on a proposal under review by our own State Department to allow the Russian space agency to construct half a dozen satellite ground monitoring stations on U.S. soil. The article describes these potential sites as ''seemingly innocuous, dome-topped antenna perched atop an electronics-packed building surrounded by a security fence somewhere in the United States.'' Taken at face value, these Russian ground monitoring stations are supposed to improve the accuracy and reliability of Russia's version of the global positioning system.

According to the Times article, the Obama administration is actively considering this request by Moscow in an attempt to reset once again the administration's failed reset policy which the President once hailed as the beginning of better U.S.-Russian relations. We have every reason to be skeptical of Russia's intentions to utilize GPS monitoring stations on U.S. soil. Let me repeat this: GPS monitoring stations controlled by Russia on U.S. soil.

Time and again, President Putin has shown he is unwilling to cooperate with America. The list of grievances continues to grow. Let's not forget that Russia has granted asylum to Edward Snowden, who is charged with espionage and theft of U.S. government property after releasing up to 200,000 classified documents to the press.

Let's not forget that Russia has defended the brutal regime of Syrian President Bashar al-Assad and helped perpetuate the dictator's grip on power with military aid.

Let's not forget that Russia, the same Russia that wants to put GPS stations on U.S. soil, has denied Russian orphans a chance at a better life in the United States, with a ban on U.S. adoptions, ultimately victimizing the most vulnerable, in a desperate attempt to distract the world from Russia's human rights failings.

It is clear Russia's interests are not often aligned with those of the United States. Accordingly, I am deeply concerned and people within the intelligence community are deeply concerned and people within the Defense Department are deeply concerned about the Russian proposal to use U.S. soil to strengthen Russia's GPS capabilities. These ground monitoring stations could be used for the purpose of gathering intelligence. Even more troubling, these stations could actually improve the accuracy of foreign missiles targeted at the United States.

Our national security and foreign policy apparatus is large and widespread. I do not question anyone's patriotism or the intentions of the State Department. But it is clear that there are other parts of the administration that are very concerned about this.

This morning I had the opportunity to review a classified report by DOD. I encourage all Members of the Senate to review this classified document and, to me, I think it will reaffirm the need for increased transparency on this very serious matter. Senators LEE, FISCHER, and CORNYN so far have joined me in filing an amendment to the Defense authorization bill that would fully inform the American people about the implications of the Russian proposal.

My amendment would prohibit the construction of GPS monitoring stations by any foreign government on U.S. soil until the Secretary of Defense and the Director of National Intelligence jointly certify to the Congress that these stations do not have the capability to gather intelligence or improve foreign weapons systems. My amendment would also require a report to Congress on the use of satellite positioning ground monitoring stations by foreign governments.

This amendment is simple and straightforward, and I urge my colleagues to support its inclusion in the Defense authorization bill. I encourage cosponsors from both sides of the aisle.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Madam President, on behalf of the Senate Armed Services Committee, we are pleased to bring S. 1197, the National Defense Authorization Act for Fiscal Year 2014, to the Senate floor. The Armed Services Committee approved the bill by a 23–3 vote on June 13, making this the 52nd consecutive year our committee has reported the Defense Authorization Act.

The strong bipartisan vote for this bill in the Armed Services Committee continues the tradition of our committee, where our Members have continued to come together to support the national defense and our men and women in uniform. I thank Senator INHOFE for the major contribution he has made to this process in his first year as the ranking Republican on the committee.

This year's bill would authorize $625.1 billion for national defense programs, the same amount as the President's budget request. Unless the Congress acts to modify or eliminate the sequestration required by the Budget Control Act, however, this amount will automatically be reduced by $50 billion, leaving the Department of Defense with far less than it needs to meet the requirements of our national military strategy.

U.S. forces are drawing down in Afghanistan and are no longer deployed in Iraq. However, the real threats to our national security remain and our forces are deployed throughout the globe. Over the course of the last year, the civil war in Syria has become increasingly destructive, North Korea has engaged in a series of provocative acts, Iran has moved forward with its nuclear program, and Al Qaeda affiliates have continued to seek safe havens in Yemen, Somalia, North Africa, and elsewhere.

It is particularly important that we do what we can to sustain the compensation and quality of life our service men and women and their families deserve as they face the hardships imposed by continuing military operations around the world. Toward this end, our bill, No. 1, authorizes a 1-percent across-the-board pay raise for all members of the uniformed services, consistent with the President's request; it reauthorizes over 30 types of bonuses and special pays aimed at encouraging enlistment, reenlistment, and continued service by Active-Duty and Reserve component military personnel. It does not include Department of Defense proposals to establish or increase health care fees, deductibles, and copayments that would primarily affect working-age military retirees and their families. It authorizes $25 million in supplemental impact aid to local educational agencies with military dependent children and $5 million in impact aid for schools with military dependent children with severe disabilities, and provides funding for the Department of Defense STARBASE Program. It enhances the Department of Defense programs to assist veterans in their transition to civilian life by improving access to credentialing programs for civilian occupational specialties.

The bill also includes funding needed to provide our troops the equipment and support they need for ongoing combat, counterinsurgency, and stability operations around the world. For example, the bill funds the President's request for $80.7 billion for overseas contingency operations. It authorizes $9.9 billion for U.S. special operations command, including both base budget funding and OCO funding. It authorizes nearly $1 billion for counter-IED efforts, beginning to ramp down expenditures in this area while ensuring that we make investments needed to protect our forces from roadside bombs.

The bill fully funds the President's request for the Afghan Security Forces Fund to train and equip the Afghan National Army and Afghan police, growing their capabilities so we can complete the transition of security responsibility as planned by the end of 2014.

It reauthorizes the use of DOD funds to support a program to reintegrate insurgent fighters into the Afghan forces and into Afghanistan. It authorizes the Secretary of Defense—upon a determination from the President that it is in the national security interest of the United States—to use up to $150 million of amounts authorized for the Coalition Support Fund account in fiscal years 2013 and 2014 to support the border security operations of the Jordanian Armed Forces, and it extends global train-and-equip authority, section 1206, through 2018 to help build the capacity of foreign force partners to conduct counterterrorism and stability operations.

The bill before us addresses major issues that are of particular importance to the Department of Defense, relative to the detention facility at Guantanamo Bay, Cuba, and the problem of sexual assault and misconduct in the military.

As to Guantanamo, this bill would provide our military with needed flexibility to determine how long we need to detain individuals now held in the Gitmo detention facility and where else we might hold them. For a number of years now Congress has enacted legislation eliminating this flexibility and requiring that we continue to hold all Gitmo detainees regardless of costs and whether it is needed in our national security interest. The existing legislation has made it more difficult to try detainees for their crimes and nearly impossible to return them to their home countries.

For example, even if we have a strong case that a detainee has committed crimes for which he could be indicted and convicted in a Federal court, the existing law makes it impossible to try him there. Even if we have determined that a detainee poses no ongoing security threat to the United States, we cannot send them back to his home country unless the Secretary of Defense certifies to six stringent conditions. Even if the individual is likely to die without advanced medical treatment, we cannot remove him from Gitmo for the purpose of receiving such treatment.

As a result, the legislation we have on the books has reinforced the impression held by many around the world that Guantanamo is a legal black hole where we hold detainees without recourse. This perception has been used by our enemies to recruit jihadists to attack us, and it has made our friends less willing to cooperate with us in our efforts to fight terrorism around the world.

The Gitmo detention facility is not only a recruiting tool for our enemies, but it has become an obsolete white elephant that costs hundreds of millions of dollars a year. It can no longer be justified based on the rationale for creating Gitmo in the first place.

One dozen years ago, the Bush administration started sending detainees to Gitmo in large part out of a desire to avoid the jurisdiction of the U.S. courts and ensure that detainees would have no legal avenue to appeal their convictions. Whether one supported that approach, that argument all but disappeared in 2008 when the Supreme Court ruled in the Boumediene case that Gitmo detainees would be treated as being inside the United States for the purpose of habeas corpus appeals.

Instead of recognizing that the Gitmo detention facility is no longer needed, however, we have enacted legislation which makes it virtually impossible to move detainees anywhere else, ensuring that the facility will remain open whether it is needed for particular detainees or not. The current law prohibits the transfer of any detainee to the United States for detention under the law of armed conflict or trial before a military commission or in civilian court and includes unduly burdensome certification requirements that make it extremely difficult to transfer detainees back to their home countries.

The basis for these legislative obstacles appears to be the fear that returning Gitmo detainees to their home countries or transferring them to the United States would pose an unacceptable threat to our national security. However, we have brought numerous terrorists to the United States for trial and incarceration without adverse effect to our national security.

In just the last 3 years, for example, we have brought three foreign terrorists into the United States for trial. The first is Abu Ghaith, Osama bin Laden's son-in-law, who has been convicted in Federal court and remains in Federal custody without incident. The second is Ahmed Abdulkadir Warsame, who pled guilty in Federal court and remains in Federal custody without incident. The third is Ahmed Ghailani, a Gitmo detainee who was convicted in Federal court, received a life sentence, and remains in Federal custody without incident.

Moreover, our military has routinely detained individuals on the battlefield in Afghanistan and then exercised the discretion to transfer them to local jurisdiction or to release them. If we can trust our military to make these determinations on a day-to-day basis, we should be able to trust them to make the same determinations at Gitmo.

The risk that any of these detainees could once again engage in activities hostile to our interests around the world has been substantially reduced by the rigorous procedures our military has instituted to review individual cases and ensure that appropriate protections are in place before transferring any detainee back to his home country.

These procedures have resulted in a dramatic decline in the so-called recidivism rate over the last 5 years. While more than 160 Gitmo detainees released by the Bush administration are known or suspected to have engaged in activities hostile to our interest after their transfer or release, only 7 detainees released by the Obama administration—less than 10 percent of the total—are known or suspected to have engaged in such activities.

This rigorous review process would be codified by the provision in our bill

which would require that the Secretary of Defense determine, prior to transferring a Gitmo detainee, that the transfer is in our national security interest and that actions have been taken to mitigate any risks that the detainee could again engage in any activity that threatens U.S. persons or interest.

It is time for us to move past the fear that our country somehow lacks the capacity to handle Gitmo detainees and allow our military to address the transfer of detainees in a rational manner based on the facts of each case.

As to sexual misconduct, this bill includes the most comprehensive legislation targeting sexual misconduct and assault in the military ever considered by Congress. Our committee adopted more than two dozen separate provisions and a host of historic, significant reforms addressing sexual assault and prevention. In particular, the bill makes it a crime under the Uniform Code of Military Justice to retaliate against a victim who reports a sexual assault, and it requires the DOD IG to review and investigate any allegation of such retaliation.

Our bill establishes the expectation that commanders will be relieved of their command if they fail to maintain a climate in which victims can come forward without fear.

Our bill requires service Secretaries to provide a special victims' counsel to provide legal advice and assistance to servicemembers who are victims of a sexual assault committed by a member of the Armed Forces.

Our bill amends article 60 of the Uniform Code of Military Justice to limit the authority of a commander to overturn a verdict for rape, sexual assault, forcible sodomy, and other serious offenses.

Our bill eliminates the element of the character of the accused from the factors to be considered in deciding how to proceed with the case.

Our bill requires commanding officers to immediately refer any allegation of a sexual misconduct offense involving service members to the appropriate investigative agency.

Our bill requires that the sentence for service members convicted of rape, sexual assault, forcible sodomy or an attempt to commit one of those offenses, include, at a minimum, a dismissal or dishonorable discharge.

Our bill requires that all substantiated complaints of sexual-related offenses be noted in the service record of the offender.

Our bill eliminates the 5-year statute of limitations on trial by court-martial for certain sexual-related offenses.

Our bill codifies a prohibition on military service by individuals convicted of sexual offenses.

Some have argued we should also change the military justice system by removing commanders from their current role in deciding what cases should be prosecuted and instead place that authority in the hands of military lawyers. However, the testimony before our committee showed that commanders, far from being reluctant to prosecute sexual offenses, are more likely to prosecute those offenses than civilian or military lawyers.

Further, removing authority from commanding officers would distance them from these cases and make them less accountable, making it more difficult for them to take the steps needed to protect victims from peer pressure, ostracism, and retaliation. While taking authority away from the chain of command would indeed be a dramatic change, this change would actually afford the victims of sexual assault less protection and make it less likely that sexual assaults will be prosecuted than the current system.

For this reason, we adopted an alternative approach that will better protect victims. Our approach is to require a commander who receives an allegation of sexual assault to either prosecute it or have it automatically reviewed by his or her commander—almost a general or flag officer—and if a commander chooses not to prosecute against the advice of legal counsel, the case receives automatic review by a service Secretary. This approach will enable commanders to continue an aggressive approach to prosecuting sexual offenses while ensuring against the unusual case in which a commander might decide not to pursue a case that could be successfully prosecuted.

An important part of this problem is the underreporting and inadequate investigation of sexual assaults. There is still inadequate reports for victims of sexual assaults. There is also a problem with retaliation, ostracism, and peer pressure from victims. Underneath it all remains a culture that has taken inadequate steps to correct this situation. In the end, getting this right will require sustained leadership by commanders who can be held accountable for conduct in their units. It is more difficult to hold someone accountable for failure to act if we reduce his or her authority to act.

We want commanders fully engaged in the resolution of this problem and not divorced from it. Throughout our deliberations on this issue, we were guided by a single goal: passing the strongest, most effective measures to combat sexual assault by holding perpetrators accountable and protecting and supporting victims. We believe our bill does that.

Our country relies on the men and women of our military and the civilians who support them to keep us safe and to help us meet U.S. national security objectives around the world. We expect them to put their lives on the line every day, and in return we tell them we will stand by them and their families, that we will provide them with the best training, the best equipment, and the best support available to any military anywhere in the world.

As of today, we have roughly 1.4 million U.S. soldiers, sailors, airmen, and marines serving on Active Duty—with tens of thousands engaged in combat in Afghanistan and stationed in other regional hotspots around the globe.

While there are issues on which Members may disagree, we all know we must provide our troops the support they need. Senate action on the National Defense Authorization Act for Fiscal Year 2014 will improve the quality of life for our men and women in uniform and their families. It will give them the tools they need to remain the most effective fighting force in the world, and most important of all, it will send an important message that we as a nation stand behind them and appreciate their service.

I look forward to working with all of our colleagues to pass this vital legislation and again would urge all of our colleagues who have amendments to bring them to our attention so we can try very hard to clear amendments which can get support on both sides of the aisle and which have no strong objection.

This has been a process which has worked for as many years as I have been here, and it is the only way we are going to be able to get a bill passed this week. Again, it is critically important that this bill pass this week or else there seems to be very little hope we could actually get a bill to conference and back to both Houses.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. MANCHIN. Madam President, I ask unanimous consent to speak for up to 5 minutes, and that after I conclude my remarks, Senator CHAMBLISS be recognized, followed by Senator AYOTTE.

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

Mr. MANCHIN. Madam President, I rise to highlight for Senators the important work of the Airland Subcommittee in the fiscal year 2014 National Defense Authorization Act as reported by the Committee on Armed Services. I am very proud to be the chairman of the Airland Subcommittee and for the close working relationship I have with Senator WICKER, the ranking member of the subcommittee.

The Airland Subcommittee has broad responsibilities for substantial parts of the Army, Navy, Marine Corps, and Air Force budgets. The Airland Subcommittee also has responsibility for National Guard and Reserve equipment and readiness. As a former governor, I know firsthand how effective the National Guard is, and they provide a great value for all Americans.

Throughout this process the goal of the Airland Subcommittee has been to promote and improve current and future readiness of our military, all while ensuring the most efficient and effective use of taxpayer dollars. This year the Airland Subcommittee has jurisdiction over $49 billion of the Defense

Department's base and overseas contingency budget. This includes $37.1 billion for procurement and $11.9 billion for research and development.

In this regard the Airland Subcommittee's recommendation fully supports the Department's budget request for Overseas Contingency Operations and would support most of the major weapons and equipment programs in the base as requested. However, sequestration presents many challenges. We can no longer spend billions of dollars buying equipment the military does not need or want. Just a few days ago, the chairman of the Joint Chiefs of staff, General Dempsey, provided me with a list of programs the Department of Defense no longer needs and they want to retire.

This much is clear: We can no longer conduct business as usual. In fact, the Bowles-Simpson Commission recommended the Department of Defense and Congress establish a commission that would review major weapons programs unneeded by the Department. This is something we should take a look at. I look forward to working with my colleagues on this important issue, and the National Commission on the Structure of the Air Force is already reviewing and will make recommendations on the retirements and divestiture of aircraft the military no longer needs.

In future subcommittee work I will be reviewing General Dempsey's list and will be working with my colleagues on the programs the Department no longer needs.

Congress must debate this important issue so that we spend every dollar we have wisely and keep our military the strongest in the world.

I wish to compliment Senator WICKER again on how well we have worked together this year, and I thank Chairman LEVIN, Ranking Member INHOFE, and the wonderful committee staff who have worked so closely with my staff and me on this bill.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CHAMBLISS. Madam President, first of all, let me say to my friend from West Virginia—I happen to serve on that subcommittee and I was in the hearing the other day when he asked a question of General Dempsey, a very appropriate question. We thought a very strong answer was going to be given by Senator Dempsey to the question of the Senator from West Virginia regarding weapons systems and other expenditures that are mandated by Congress that the chiefs and other folks at the Pentagon have said they don't need. As he and I were just discussing, we finally got that letter yesterday, and it was somewhat of a very tepid response rather than the strong response we had hoped for.

In any event, the Senator from West Virginia, along with Senator COBURN and myself, are going to work together to develop a list of expenditures that are either unwanted by the Pentagon that Congress has mandated or expenditures that ought to be spent in some other agency but, unfortunately, are being charged to the Pentagon. So I look forward to working with the chairman on that issue, and I thank him and Senator WICKER for their leadership on the subcommittee.

I rise principally today in support of the Ayotte-Chambliss-Inhofe amendment No. 2255, which would restore many of the legislative limits and requirements Congress has placed in recent years on the transfer of Guantanamo Bay detainees and prevent medical-related transfers to the United States. I believe these legislative safeguards are vital to our national security and essential to good intelligence collection.

For several years now we have been debating the status of Guantanamo Bay and the detainees who remain there. Time and time again, during the course of these debates, I have asked this administration to come up with a viable, long-term detention and interrogation policy. Frankly, they have failed to do so because of a stubborn commitment to a poorly thought out campaign promise to close Guantanamo.

The call to close Guantanamo may sound like a good campaign sound bite to some people but, frankly, in the real world of national security it undermines good intelligence collection and increases the risks that dangerous detainees will be back on the streets where they can continue, as they have, to kill and harm Americans. These are not abstract theories; they are facts. The recidivism rate is nearly 29 percent and has been climbing steadily since detainees began being released from Guantanamo. This includes nearly 10 percent of detainees who have returned to the fight after being transferred by the current administration following the administration's extensive review of each detainee.

Al Qaeda in the Arabian Peninsula counts former Guantanamo detainees not just among its members but among its leaders. A former Guantanamo detainee is believed to have been involved in last year's Benghazi attacks that killed our ambassador and three other Americans.

The administration's stubborn refusal to add even one more terrorist to the Gitmo detainee population has forced the executive branch back into the pre-9/11 mindset of treating terrorists as ordinary criminals—a mindset we know doesn't work. A lot of people will come to this floor on the other side of the aisle and say: Well, we have tried all of these terrorists in article III courts in the United States and it has worked. For the most part, they have been convicted, and they are now serving time. That is a fairly accurate statement. However, what they fail to say is that these article III trials of terrorists who have been arrested inside the United States are nowhere near the caliber of those who planned and carried out the attacks of 9/11 as well as those who were captured on the battlefield seeking to kill and harm Americans and, in a lot of instances, did kill Americans and maim Americans, and they are now housed at Guantanamo. That is a very, very distinct difference, and those prisoners should not be treated the same as an ordinary common burglar is treated in an article III court here in the United States.

In response to criticisms of the approach that the mindset of 9/11 is being returned to, the administration now seems to favor interrogations on board naval vessels. The end result, however, has been no different. At the end of these brief interrogations, those individuals have been transferred to Federal courts here in the United States where they are unlikely to provide any more intelligence information because they have been Mirandized and are now awaiting trial.

From the Christmas Day bomber to the Boston bomber to the East Africa embassies bomber, this preference for criminal prosecution at the expense of intelligence collection has become the administration's standard operating procedure. This is no way to defend our Nation, and it sends a message of weakness to terrorists and our allies alike.

This amendment Senator AYOTTE, Senator INHOFE, and I are putting forward sends the right message to the American people. It ensures that our detention practices have clarity for the next year and that on a permanent basis no detainee will be transferred overseas unless there is a clear certification that the transfer is in the best interests of the United States. This also sends a very clear message to the terrorists at Guantanamo Bay: You are not coming to the United States where you will have the advantage of article III courts.

This amendment includes five provisions.

No. 1, it imposes a 1-year ban on transfers to the United States of Guantanamo detainees, except in cases after the date of enactment where the detainee is sent to Guantanamo for purposes of interrogation.

No. 2, it imposes a 1-year ban on transfers of detainees to Yemen—and I will speak more about that in a minute.

No. 3, it imposes a 1-year ban on building or modifying facilities inside the U.S. to house Guantanamo detainees.

No. 4, it makes permanent the certification requirements needed before any transfer of a detainee overseas.

Lastly, it strikes the provision in the bill that allows transfers of detainees to the United States purely for medical care.

Let me address each provision very briefly. First, I have yet to hear why it is a good idea to bring Guantanamo detainees to the United States. While the President made a promise to close Guantanamo, the American people seem unified against bringing these detainees to the U.S. for any reason, and I believe we should listen to the American people.

It is clear that giving the Secretary of Defense the authority to decide to bring detainees here for detention, trial, and incarceration will have the same impact as Congress lifting the prohibition outright. But the same issues we have been talking about for several years and that GAO identified in its 2012 report on detention options inside of the United States still exists. These include cost considerations, questions about the legal status of the detainees, and concerns about protecting the general public and personnel at these facilities or during trial.

Let's look at who these 164 individuals are that remain at Guantanamo. We started out with about 860-something, as I recall, give or take a few. So we have already released both to other countries and, in some cases where we frankly made a mistake, individuals who should not have been there, or it has been determined by the appropriate reviewing committees that these detainees were OK to be sent back to their country of origin or to some other host country that was willing to take them and supervise them or keep them in detention but to get them out of Guantanamo. Now, the 164 who are remaining are the meanest, nastiest terrorists in the world, frankly. They are the ones nobody is going to want. So if nobody else wants them, why should we allow them to come to the United States?

These are the individuals who either planned and masterminded the attack on the United States on September 11, 2001, such as Khalid Shaikh Mohammed, or they are individuals we picked up on the battlefield who were actively engaged in fighting and killing Americans, as well as engaged in building bombs that were intended to—and in a lot of instances did—explode and kill or injure Americans.

Some of these folks range from KSM to the USS Cole bomber who are awaiting trial and, frankly, should be tried at Guantanamo. In other words, they are dangerous detainees who should not and cannot be sent, as I said, to any other country.

Many of us have been calling on the administration to send new detainees to Guantanamo simply for interrogation. Detainees such as al-Shabaab leader Ahmed Abdulkadir Warsame, East Africa Embassies bombing suspect Abu Anas al-Libi, who was arrested in Libya recently, and suspects in the Benghazi attacks all belong at Guantanamo where they can be interrogated for a long time under the rules and articles of war, without Miranda rights or criminal defense lawyers.

But this administration has consistently refused to even consider Guantanamo for interrogation of the meanest folks who still remain at large. It is off the table, as they tell us. Some have used the excuse that it is off the table because of this restriction in previous Defense authorization acts. In other words, the administration could not put any new detainees at Guantanamo for interrogation because they could not send them to Federal court for trial.

If this administration had made any effort at all, even just once, over the past 4 years to interrogate detainees at Guantanamo rather than holding them on a ship, this excuse would have much more merit. But to make sure there are no excuses anymore, our amendment makes clear that detainees who are sent to Guantanamo specifically for the purposes of interrogation after the date of enactment may still be transferred to the United States for trial in article III courts or before military tribunals. That means there is absolutely no need to hold another detainee on board a ship just to interrogate him. And there is absolutely no excuse for not putting new detainees at Guantanamo Bay. This provision makes sense for the security of this country, and it makes sense for good intelligence collection.

The ban on transfers to Yemen is a very critical aspect of this amendment. The amendment bans any detainee transfers to Yemen until December 31, 2014. It has been 4 years since the President imposed a moratorium on transfers to Yemen from Guantanamo following the failed airplane bombing attempt on Christmas Day 2009 by Umar Farouk Abdulmutallab. At that time, Yemen was viewed as a hotspot for terrorists, especially with the rise of Al Qaeda in the Arabian Peninsula. Now, 4 years later, not much has really changed except for the rising recidivism rate. We know that former detainees have rejoined AQAP both as leaders and as members. We know Yemen continues to struggle with terrorist groups who are trying to make sure it remains an AQAP stronghold. And we know AQAP continues to look for ways, like the 2009 failed Christmas Day bombing, to attack this country.

We have all seen the reports that the administration wants to transfer detainees to Yemen and is working with the Yemeni Government to set up a detention or rehabilitation facility inside Yemen to house these prisoners. We learned from the Saudi rehabilitation program that rehabilitating hardened terrorists simply does not always work. The recidivism rate for the Saudi program is at least 20 percent. Many of these detainees, such as AQAP leader Said al-Shihri, ended up in Yemen fighting as terrorists again. Yemen, as one senior administration official described it, is like the Wild West. It is the last place we should send dangerous detainees. In other words, now is not the time to experiment with our national security.

Our amendment ensures that no detainee can be sent to Yemen over the next year. I recognize that there are Yemeni detainees who have been cleared for transfer, so we do not permanently prohibit those transfers. But just because a detainee is eligible for transfer from Guantanamo does not mean he no longer poses any threat at all. We have to remember that the easiest transfers have already been done, and even among those easy transfers, over a quarter of them have been known to be reengaged in the fight against Americans.

So our amendment imposes a reasonable time period on this prohibition: No transfers can occur until at least December 31, 2014. Over the next year we should have a better sense of how well the Yemeni Government is combating terrorists within its borders. Once we see their track record, we can decide whether it makes sense to send them any new detainees.

In the past, under the previous Government of Yemen, the detainees who were transferred from Guantanamo to Yemen simply were allowed to wander around in Yemen with no supervision whatsoever, and I daresay that we now do not have any idea where most of those detainees are inside of Yemen or, more significantly, whether they are still in Yemen, whether they are reengaged in the fight, whether they are in Syria fighting on one side or the other, or what has gone on with those detainees.

Al Qaeda and its affiliates look up to Guantanamo detainees. They have immediate street credibility among terrorists, which makes it more tempting for them to rejoin the fight. We should not make it easier to transfer detainees anywhere, much less places where there are confirmed recidivists or a real threat from AQAP. The detainees, including many of the Yemenis, who remain at Guantanamo are among the worst offenders.

We should want all future transfers to be done wisely and fully in line with our national security interests. This amendment accomplishes those objectives.

Third, this amendment continues the ban on building or modifying facilities inside the United States to hold those detainees. It does not prohibit any changes to the facilities at Guantanamo Bay, so those facilities will continue to be state-of-the-art.

I understand that this administration wants to close Guantanamo and that the Justice Department has already purchased the correctional facility in Thomson, IL, to house them. But there is still overwhelming consensus here in Congress and among the American people that Guantanamo detainees should never set foot inside the United States. We need to listen to that consensus.

With that in mind, our amendment ensures that not one penny of American taxpayer dollars will be spent on the Thomson facility or to build or modify any other facility inside the United States to house Guantanamo detainees. Our amendment applies not just to Defense Department funding but to all U.S. Government funds. That way, no other Department, including

the Justice Department, can try to circumvent the will of the American people and bring Guantanamo detainees to our homeland.

Many of us have been to Guantanamo. I have been there several times to see for myself how the detainees live and are treated. It is a first-rate prison facility. I have been to many prison facilities in my State as well as other parts of the country. It is one that would probably make most inmates at prisons here inside the United States very envious.

We should not forget that many of the detainees at Guantanamo are some of the most dangerous terrorists in the world. If they cannot be transferred to other countries, they do not belong in the United States.

This amendment also makes permanent the certification requirements that are needed before any detainee can be transferred outside of Guantanamo Bay. As I mentioned, the recidivism rate today is almost 29 percent and growing, so we should not make it easier to transfer detainees anywhere, much less to places where there are recidivists or real terrorist threats. The certification requirements and the ban on transfer if there is a confirmed recidivist in a host country were designed to lessen the likelihood that detainees would reengage.

I understand that some people want Guantanamo closed, but eliminating commonsense measures that are there to protect American citizens is not the way to do it. These measures give Congress and the American people confidence that the Defense Secretary has fully considered all aspects of the transfer, especially the host country's past record and current capabilities.

As the rising recidivism rate tells us, even detainees who have been cleared for transfer—through a very rigorous process, I might add—can still pose a threat. We have to remember that the easiest transfers have already been done, and even among those over a quarter have reengaged. The detainees who remain are among the worst offenders. We should want all future transfers to be done wisely and fully in line with our national security interests.

I do not find persuasive the argument that these certification requirements are so burdensome that detainees cannot be transferred. In fact, this year alone detainees have been transferred to Algeria, and we continue to get notices of other proposed transfers.

Not every detainee needs to stay at Guantanamo Bay. I recognize that, as do the other authors of this amendment. But not one should be released until we are absolutely certain that everything is being done to prevent new terrorist activity on the part of those individuals who are, in fact, released. These certification requirements give us that certainty. Making these requirements permanent is the only sure way to guarantee that each and every transfer is best for the national security of the United States.

Finally, this amendment restores the status quo by striking section 1032 in the bill, which allows the transfer of detainees into the United States for medical care. We need to remember that Guantanamo is a first-class facility, operated by dedicated military personnel who put up with an awful lot from detainees. I remember the first time I went to Guantanamo, they were housed in a facility that is not the facility they are in today. It was much more of an open facility where the guards simply would walk back and forth in very close range to the actual prisoners themselves. Those guards were subjected to being spit upon, having human waste thrown at them as well as food or anything the detainees could get their hands on. Needless to say, it was not a very nice place to be.

But we need to remember also that Guantanamo possesses not only first-class medical facilities but also first-class judicial facilities for the trial of these individuals. There is a state-of-the-art courtroom down there, which is being virtually unused today, that ought to be used to try these individuals before a military tribunal.

Section 1032 seems to be a solution in search of a problem. Guantanamo Bay has the facilities from a medical standpoint and the doctors within the military to treat these prisoners. And I am not aware of any instance in which a detainee has died or suffered further injury because of our inability to treat them at Guantanamo.

Aside from being unnecessary, this provision does not make good policy. Over the past several years detainees at Guantanamo have waged repeated hunger strikes in an effort to gain sympathy so the United States will release them from prison. When inmates in our prisons here engage in such tactics, we do not reward them, but that is exactly what section 1032 would do. If we give detainees the ability to be brought to the United States even for what is supposed to be temporary treatment, that is a powerful incentive for a detainee to injure himself or go on a hunger strike.

I am also concerned about how this provision would even be implemented. It is unclear whether we will have to modify military hospitals so they can handle high-value terrorist detainees. At what cost and at what risk to the safety of others, including the towns in which these facilities are located?

I appreciate that the provision tries to limit the rights of detainees when they are brought here, but we have been down this road before with habeas corpus rights. Once a detainee is physically inside the United States, it becomes much more difficult to argue against any change in immigration or legal status.

In my view, section 1032 is simply in this bill to further reduce the population at Guantanamo. This is not a goal I can support. Our amendment keeps the status quo and keeps these terrorist detainees where they belong—at Guantanamo Bay.

It is time for this administration to provide real leadership on detention and interrogation issues instead of trying to keep ill-conceived campaign promises that run contrary to the established facts and known threats to our national security. Keeping this country safe demands real-time intelligence—the kind we have gotten in the past from interrogating detainees for long periods of time, including those detainees at Guantanamo. It is time for us to end this dangerous practice of treating terrorists first and foremost like criminals who deserve Miranda warnings, attorneys, and court appearances.

It is time for us to stop pretending that the detainees at Guantanamo are no different from common ordinary criminals. Our amendment ensures that the balance remains on the side of our national security and good intelligence collection. It ensures that common sense, not politics, will determine the future of Guantanamo detainees and the effectiveness of our intelligence collection.

I am pleased to turn to the Senator from New Hampshire, Senator AYOTTE, who has been such a champion on this issue. She and I have worked very closely, as well as any number of other national security issues, since she came to the Senate. She has been a tremendous asset. As a former prosecutor, she understands how serious these individuals are from a criminal standpoint.

I commend her for the great work she has done, and I certainly look forward to hearing her comments.

The PRESIDING OFFICER (Mr. MANCHIN). The Senator from New Hampshire.

Ms. AYOTTE. I wish to thank my colleague from Georgia, who is the Republican ranking member on the Senate Intelligence Committee. Senator CHAMBLISS has seen so much in terms of the real threats that we face from terrorists in this country. I appreciate his leadership on ensuring that America remains safe and his leadership on this issue of ensuring that the Guantanamo detainees are not released to get back in the fight against us, to attack not only our soldiers but us and our allies.

I would start with the Defense authorization, as it stands, and even the side-by-side offered by Chairman LEVIN, is a dramatic change from current policy of where we are now with regard to Guantanamo and the transfer of Guantanamo detainees internationally and to the United States of America between last year's Defense authorization and this year's Defense authorization.

What has changed? The only thing that has changed is the fact that the reengagement rate of those who are suspected of having been released—who have been released from Guantanamo and are suspected or actually have reengaged in the fight against us—has increased, not decreased.

Yet the status quo of where we stand now, if our amendment just described

by Senator CHAMBLISS is not adopted, amendment No. 2255—is that we would weaken what is required to be certified from people who are released from Guantanamo.

In other words, the Defense authorization and the proposal offered by Chairman LEVIN would weaken the national security requirements that are currently in place; the standards which we have to meet before someone is transferred from Guantanamo to another country, even though the reengagement rate has actually increased.

What else would it do? It would now allow the potential for transferring Guantanamo detainees to the United States of America. This would include Guantanamo detainees potentially such as Khalid Shaikh Mohammed whom Senator CHAMBLISS has referenced. He is the mastermind of September 11. He is the key player behind the attacks on our country on September 11, and so we are going to allow the potential that he could be transferred to the United States of America.

In addition, there is allowance for a potential transfer to the country of Yemen. As Senator CHAMBLISS has talked about, the country of Yemen is the place where the head of Al Qaeda in the Arabian Peninsula is centered. Not only that, in Yemen, there have actually been instances where we have seen prison breaks in Yemen. In fact, it is a very destabilized place.

In June I asked the Chairman of the Joint Chiefs of Staff about Yemen, and he assessed it to be the most dangerous. Al Qaeda in the Arabian Peninsula, which is located in Yemen, is the most dangerous Al Qaeda affiliate. Again, when we look at Yemen, there have been breaks from detention facilities there.

Senator CHAMBLISS has described the 2009 Christmas Day Bomber who received his training in Yemen.

We have Guantanamo detainees who have actually been captured—whom we have let out previously—captured, killed or spotted in Yemen. These included Al Qaeda in the Arabian Peninsula's former second in command, Said al-Shihri and Ibrahim Suleiman al Rubaish, alleged to be one of Al Qaeda in the Arabian Peninsula's main religious leaders. We have instances where in Yemen there actually been have Al Qaeda terrorists, some who have returned to the leadership of Al Qaeda after we released them from Guantanamo and have gone back in.

I ask, why are we lifting the prohibition of transfers to Yemen when there still is not a certification that can be made that they will not reengage and that Yemen even can detain these individuals or account for them in a place which is the head of Al Qaeda in the Arabian Peninsula?

Where we are now is very important in terms of the protection of our country. As Senator CHAMBLISS mentioned, the administration has been so caught up in not wanting to transfer anyone into Guantanamo that we are left with a situation where we are potentially losing valuable intelligence to protect our country.

I wish to speak about that. If we captured tomorrow the current head of Al Qaeda, Zawahiri, what would we do with him? Are we going to bring him to the United States or should we bring him to a secure detention facility at Guantanamo?

The legal questions that are raised by this in terms of if we bring him to the United States, are we going to tell him you have the right to remain silent, even though he is the current head of Al Qaeda? Shouldn't the first priority be to collect information to protect our country, to know what they are planning, to know what they are doing, to know what could happen next?

We now have the example that was given of Warsame, who was a terrorist captured overseas. Instead of being brought to Guantanamo, he was put on a ship for approximately 60 days and then brought to the United States, where he was told you have the right to remain silent.

Worse, recently, there was the capture of a man named al-Libi, and al-Libi actually had been involved in the beginning—in fact, the Director of the Federal Bureau of Investigation recently said before the Homeland Security Committee that he was a founder of Al Qaeda with Osama bin Laden—and recaptured in Libya. Rather than bring him to Guantanamo Bay, he was put on a ship for only 1 week, 1 week.

Then he was transferred to New York City and read his Miranda rights. This is someone who was alleged to have committed the bombing against the embassies in Africa in 1998 and someone who has decades of involvement in Al Qaeda and who was only interrogated on a ship for 1 week, rather than being brought to Guantanamo and fully interrogated to make sure we maximize the gathering of intelligence to protect our country.

Now the administration wants to close Guantanamo. The alternative offered by Chairman LEVIN is that they should come up with a plan of where we would put these detainees in the United States of America.

The question is why have we had to wait this long, first, to even have some information of what the plan would be and what to do. Second, why would we want the most dangerous terrorists in the world, some of them, to come to the United States of America, when we have a secure detention facility at Guantanamo? Why would we risk the legal questions that will be raised if we bring them to the United States? Do we have to read them Miranda? If we capture Zawahiri and we have no Guantanamo to take him to, do we have to read him Miranda because he is in the United States of America and we can't gather intelligence to protect our country?

How much does it cost to make sure people are secure in the area where these terrorists are being brought? We don't even know where they will be brought because the alternative amendment, all it says is that they have to come up with a plan of where to put these terrorists rather than at Guantanamo. We don't know—the amendment does not provide for us as Congress to approve this plan. It only says the Secretary of Defense has to come up with a plan, and then he may take action to transfer the detainees, allowing them to be transferred to the United States of America.

Stay tuned if the Guantanamo detainees are coming to your neighborhood because we don't know. This is why it is important that the prohibitions stay in place in the absence of any plan. Why should we bring them to the United States of America, given the dangerous nature of who they are? Also, why wouldn't we want to have a secure facility to ensure that we have a place to interrogate terrorists, to make sure we can maximize the information and understand what they know to prevent attacks against our country. Otherwise, we will continue to have a situation where terrorists such as al-Libi are only interrogated for 1 week and then they are told you have the right to remain silent. No terrorist should hear that right.

I wish to say that what this provision does is it puts back in place the requirements that the administration has to meet a strong set of criteria before they can transfer to third-party countries.

What was taken out? What was taken out, which is important, is the way they have weakened the requirements for transferring people, the requirements the administration must meet before transferring from Guantanamo to third-party countries. They have taken out language that requires the Secretary of Defense currently to certify that a country is not a state sponsor of terrorism or foreign terrorist organization.

Now there is no longer a requirement that we even have to certify that. If our amendment is not passed and the alternative is passed, if there is a country or an entity that is a state sponsor of terrorism or a foreign terrorist organization, then they can transfer there.

They have also taken out the provision that would consider whether we have previously transferred a detainee to the country and yet the detainee has gone back into the fight, has reengaged. In other words, if we made a mistake in the past and transferred someone out of Guantanamo to a country such as Yemen, they weren't able to secure that individual and that individual gets back into the fight, that was a consideration they had to take into account before they could transfer to that country.

That is now being removed from the national security criteria, making it much weaker and easier to transfer to countries that are not only potential sponsors of terrorism but are also

countries where we have already had a history of transferring detainees who have gotten back in the fight against us and our soldiers. We have seen some of these detainees show up in places such as Afghanistan against our soldiers. We have seen these detainees attempt to attack us and our allies. We cannot risk weakening the provisions to say we are going to transfer them and take our risks that they can do that again.

We should keep the current law in place. The administration has been able to meet the current law. They have transferred six detainees under the current provisions. They do not have an excuse to say that we can't transfer anyone because they have already been able to transfer people.

I ask unanimous consent to ask my colleague, the Senator from Georgia, a question about these provisions.

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

Ms. AYOTTE. I ask Senator CHAMBLISS, if we eliminate Guantanamo—in other words, under this proposal they would be permitted to transfer people to the United States of America or that new captures be brought to the United States of America instead of to a facility such as Guantanamo, what are the risks we face in terms of losing valuable intelligence that we need to protect our country?

Mr. CHAMBLISS. The very best tool we have been able to utilize from an intelligence-gathering standpoint is the information we gather from individuals who were involved in the crime or involved in the planning of the crime. That is the case whether it is an ordinary burglary, bank robbery or in the case that we are talking about today, the planning and the scheming of the carrying out of what happened on September 11, as well as terrorist activity prior to that, such as the USS Cole bombing and others, as well as terrorist activity against the United States subsequent to September 11, as well as the detainees who are at Guantanamo today who were captured on the battlefield in Afghanistan.

We have gone through each one of the detainees who were involved in specific incidents or who are battlefield-captured detainees and we have been able to gather intelligence from them that we simply would not have been able to get from anyone else. Many times what we have when we interrogate the detainees, we will know the answer to the question we are going to ask them. Sometimes it is information that was gleaned from detainee X, who was with detainee Y whom we are now interrogating. By virtue of the fact that we know information that we have already gleaned from detainee X, we can ask terrorist Y about it or detainee Y. And you are going to get not only verification of what the first interrogated detainee tells you, but all of a sudden you are going to have an expanded story because this guy says, well, he knows this, and that is the case, so I may as well go ahead and tell him the rest of this.

That is kind of the way the interrogation process goes. What has happened at Guantanamo is that it has been there for a number of years now. September 11 is now 12 years behind us, but we are still gathering information from detainees at Guantanamo who have been there from the very first day it opened. We are gathering information on acts of violence that have occurred, but more significantly on the makeup of Al Qaeda, on who the members are, where they are located, where their headquarters were versus where they think the headquarters might be. There is such a valuable source of information to be gleaned from individuals one on one in the interrogation process that we simply can't get otherwise.

Let me refer a question to the Senator from New Hampshire. She was a prosecutor. She was the attorney general of New Hampshire and she prosecuted any number of criminal cases over the years as attorney general, including some very violent cases. She is familiar with the criminal process, obviously. She is familiar with individuals who have been convicted of crimes, and who, in some instances, were let out of jail when their time was up or whatever and those individuals reengaged in criminal activity, much like what we are seeing at Guantanamo today. The Senator and I have both talked about the recidivism rate being very high.

What is the Senator's opinion, as a long-time prosecutor, relative to these 164 individuals who remain at Guantanamo Bay today with regard to what she thinks is the possibility or the probability of their reengaging in the fight because of their long-term detention at Guantanamo?

Ms. AYOTTE. I would say we have to go from the evidence we have before us, where we have a 29-percent reengagement rate. And let's face it. The easier decisions were made first, in terms of who should be released. Now we have some very hardcore individuals who are there. We already have a 29-percent reengagement rate of them getting back in the fight against us as terrorists, and so we face a grave risk of some of the most hardened individuals if we transfer them or we lessen the standard for transfer, which is what this is doing. It is taking away the issues I talked about—the consideration of countries we have already transferred to but people have gotten back in it—and making it easier to transfer and weaker in terms of the national security requirements that have to be met, and I am worried they will get back in and then harm us and our interests because we already have a history of that.

I want to ask the Senator from Georgia an additional question. Some have cited the cost issue as the reason we should close Guantanamo. But to the Senator's knowledge, has anyone done the cost estimate of all the considerations that would have to be taken into account in the United States and also the security interests of the people of this country of transferring these terrorists to the United States?

Finally, I would also say there are risks we face in losing intelligence if they have to be Mirandized, and things such as that. That is a huge cost in terms of protecting our country, is it not?

Mr. CHAMBLISS. Well, it certainly is. I think the Senator and I need to be very clear with our colleagues here as well as the American public. When it comes to the cost of detaining terrorists who carried out the horrific attacks of September 11, I think the American people are well prepared to use their taxpayer dollars to house guys such as Khalid Shaikh Mohammed, who has admitted to planning the September 11 attacks. If we house him in a prison here inside the United States and he gets Mirandized, I am sure the first thing he is going to do is to get a lawyer. The Senator and I are both lawyers, and we would be foolish not to tell our client to hush up, don't talk anymore. And that is exactly what he would do.

So the cost of detaining individuals who ripped this country apart on September 11, 2001, is not a consideration, in my mind, from the standpoint of whether we should house those folks for the rest of their lives.

Ms. AYOTTE. If we were to lose, for example, valuable intelligence, if we were to get Zawahiri tomorrow, or if we had captured Osama bin Laden instead of killing him, and were able to interrogate him, that is a value that cannot be placed on that in terms of preventing future attacks and understanding how Al Qaeda is planning things in order to prevent future harm to Americans; isn't that right?

Mr. CHAMBLISS. Absolutely. No question about it. And if you do bring them to the United States, I guarantee that is the last bit of interrogation of any of those individuals that we will ever see.

The Senator mentioned bin Laden. I remember at a hearing in the Senate Armed Services Committee where the issue of bin Laden came up during a presentation by the current administration's Secretary of Defense. I asked the question with regard to Guantanamo Bay, and said: If you captured bin Laden tomorrow, what would you do with him? And to his credit, the Secretary of Defense looked me straight in the eye and said: Gee, Senator, I guess we would have to send him to Guantanamo. And he was right. There is nowhere in America where bin Laden would have been welcomed in the county jail or some Federal institution. I don't think there is any question about that. The 164 who are there today, in my mind, fit in that same category. Some of these individuals have never said one word to an interrogator since they have been there. Some

of them—most of them, in fact—have been very open, and we still are gathering intelligence from them. But if we transfer them to the United States, that is the last we will hear from them.

Ms. AYOTTE. I thank my colleague.

Mr. INHOFE. Will the Senator yield?

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. I have been listening to the discussion. I agree wholeheartedly with everything that has been said. The amendment we are going to be voting on is part of three different amendments. I had one of them, as do my two colleagues. One thing that hasn't been said is the part I put in where I constructed a provision to prohibit transferring of detainees for emergency medical treatment, which is just another way of getting them there.

The PRESIDING OFFICER. The time has expired.

Mr. INHOFE. I ask unanimous consent to speak for 2 more minutes.

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

Mr. INHOFE. The other thing is, when you transfer someone here for incarceration purposes, is it not true these are not criminals, these are terrorists, and what terrorists do for a living is train other people to be terrorists? To commingle them in our prison system is something that would be of great danger to this country. That is something my colleagues would agree is one of the major reasons we want to keep them from the United States.

Ms. AYOTTE. I would agree with Ranking Member INHOFE, and I want to thank him for his leadership. Absolutely, these are not common criminals. These are not people who have robbed a bank. These are people who have attacked our country and who seek to get other people to attack our country. That is the reason why we wouldn't want to mingle them with criminals or bring them to the United States so they can be told they have the right to remain silent. We have to protect our country by knowing what they know.

Mr. INHOFE. Parliamentary inquiry: The Chair has said the time on our side has expired. Of course, I know——

The PRESIDING OFFICER. That is correct.

Mr. INHOFE. I know the chairman wants to use some time here too.

I ask unanimous consent that at the conclusion of his remarks, if all time has not been consumed, I be given a few minutes.

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

Mr. LEVIN. Mr. President, I understand the situation is as follows: that the time between now and 4 o'clock is under majority control, and then between 4 o'clock and 5 o'clock we have not resolved that issue as to who would control time; am I correct?

The PRESIDING OFFICER. That is correct.

Mr. LEVIN. So there may be more time available between 4 o'clock and 5 o'clock.

Mr. CHAMBLISS. Would the Senator repeat that?

Mr. LEVIN. Under the existing UC, the time between now and 4 o'clock is under the control of the majority, because the minority has used their time. At 4 o'clock, we have to enter into another UC—or we can do it now—deciding what the situation will be for the hour between 4 o'clock and the time of the vote.

Mr. CHAMBLISS. I thank the Senator.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I support the provisions in this bill relating to the Guantanamo detention facility, or Gitmo, and oppose the amendment to strike those provisions and to reinstate existing restrictions on the transfer of Gitmo detainees.

Gitmo is expensive, inefficient, damaging to U.S. international standing, harmful to our allies' ability to cooperate with us, and serves as a recruiting tool for extremists. It is not needed to secure people who should be detained and should be tried. There are other places for detention and for trial in front of a military tribunal. We don't need Gitmo to stay open at a huge expense in order to do that.

The bill before us makes long overdue fixes to our ability to transfer detainees out of Gitmo, provide our military with needed flexibility to determine how long we need to detain individuals now held at the Guantanamo facility, and where we should hold them.

For a number of years now, Congress has enacted legislation eliminating that flexibility and requiring we continue to hold all Gitmo detainees at Guantanamo whether or not it is in our national security interests to do so. The current law establishes an absolute ban on bringing any Gitmo detainee to the United States for any purpose, including detention, trial, incarceration, or even medical treatment. And it replaces the best judgment of our military and intelligence experts on the risk posed by an additional Gitmo detainee with a cumbersome checklist of requirements that must be certified before any detainee may be transferred overseas.

The current law makes it more difficult to try detainees for their crimes and nearly impossible to return them to their home countries. For example, even if we have a strong case that a detainee has committed crimes for which he could be indicted, convicted in Federal Court, the current law makes it impossible to try him. This is true even in cases where similar charges are not available before a military commission, making it impossible to try the detainee at Guantanamo. And it is true even in cases where the security risks in bringing the detainee to the United States would be nonexistent.

In 2010, the Guantanamo Detainee Review Task Force recommended 44 Gitmo detainees for possible prosecution. As a result in significant part of the legislated restrictions on transferring detainees to the United States for trial, however, we have had only 4 of the 44 plea bargains and no other successful prosecutions of those detainees.

Similarly, even if we have determined that a detainee poses no ongoing security threat to the United States, we cannot send them back to their home country unless the Secretary of Defense certifies to six conditions addressing issues such as the country's control over its own territory and its detention facilities and so forth. And even if the individual is likely to die without advanced medical treatment, we cannot remove him from Gitmo for the purpose of receiving such treatment.

In 2010, the Guantanamo Detainee Review Task Force conducted a rigorous interagency review and determined that more than half of the Gitmo population, including 84 of the 164 detainees currently at Gitmo, could be safely transferred overseas without posing a significant security threat. However, only two Gitmo detainees have actually been transferred using the certification provision since it was enacted at the end of 2010.

Under the current law, even if a detainee has been convicted or pled guilty and served his sentence, even if he has cooperated with us and provided us with useful intelligence, even if he has renounced all ties to Al Qaeda or the Taliban, even if he has been determined to no longer pose a threat to our national security, it is still extremely difficult to transfer or release a Gitmo detainee. That is why we still have detainees sitting in Guantanamo who have been cleared for transfer or release on multiple occasions by two different administrations over a period of almost a decade.

The current law has reinforced, as a result, the impression held by many around the world that Guantanamo is a legal black hole where we hold detainees without recourse. This perception has been used by our enemies to recruit jihadists to attack us, and it has made our friends less willing to cooperate with us in our efforts to fight terrorism around the world. For this reason, many of our top national security leaders spanning the Bush and Obama administrations have repeatedly told us of the harm that Gitmo causes to our national security.

First, with respect to transfers of Gitmo detainees overseas to their home countries or other countries, the bill would streamline the onerous certification procedures imposed by Congress and restore the ability of our military leaders to exercise their best judgment in determining whether detainees could be transferred abroad consistent with our national security. This provision would enable the Department of Defense to handle Gitmo detainees in the same way that it has handled other detainees in the course

of the conflicts in Iraq and Afghanistan—by making case-by-case determinations whether it is in our national security interest to continue holding an individual.

Second, with respect to transfers of Gitmo detainees into the United States, the bill would reverse the one-size-fits-all ban that Congress has imposed on such transfers and permit case-by-case determinations of whether it is in our national security interest to transfer Gitmo detainees into custody inside the United States for detention and trial. This provision would restore our Nation's ability to use a key tool in the fight against the terrorist threat. That tool is prosecution of Gitmo detainees in Federal courts.

I have offered a side-by-side amendment with Senator MCCAIN which requires the administration to develop a comprehensive plan and submit it to Congress before it could transfer any detainees to the United States under this provision. This plan would include a case-by-case determination of each individual held at Guantanamo where the individual is intended to be held, including the specific facility or facilities inside the United States that would be used and the estimated costs of any modification that may be needed at those facilities.

The side-by-side amendment would also clarify that Gitmo detainees would not gain any additional legal rights as a result of their transfer to the United States for detention and trial. In particular, detainees who are transferred to the United States would not gain any additional rights; would not be permitted to be released inside the United States; would not lose their status as unprivileged enemy belligerents eligible for detention and trial under the law of war; and would not gain any additional right to challenge his or her detention beyond the right to habeas corpus—which they already have at Guantanamo, as the Supreme Court has decided.

Mr. President, I ask unanimous consent that Senator FEINSTEIN be added as a cosponsor to our side-by-side amendment, the Levin-McCain amendment.

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

Mr. LEVIN. Guantanamo continues to be a damaging reminder of a failed U.S. strategy that sought to put captured terrorists beyond the reach of the law and the U.S. courts. A dozen years ago the Bush administration started sending detainees to Gitmo in large part out of a desire to avoid the jurisdiction of the United States courts and ensure that detainees would have no legal avenue to appeal their convictions. Now, whether or not one supported that approach, that argument ended in 2008, when the Supreme Court ruled in the Boumediene case that Gitmo detainees would be treated as being inside the United States for the purpose of habeas corpus appeals.

Instead of recognizing the problems with maintaining the Gitmo facility—the problems of extreme costs, and that it adds no additional security to what exists if these people are brought to the United States for military trial, as being held as prisoners under the laws of war, or for Federal court trial, even though all of that is still possible inside the United States—we have enacted legislation which makes it virtually impossible to move detainees anywhere else, ensuring that the facility is going to remain open whether we need it or not.

The result is that we are stuck with an expensive facility. And make no mistake, the costs of the Guantanamo detention facility are exorbitant. The Department of Defense has put the costs associated with Gitmo at over $400 million a year. That is more than $2.5 million per detainee. If we had any additional security as a result, it would be worth it. But we don't need Gitmo for additional security. These detainees can be held in the United States. They can be held for trial, they can be held according to the rule of law, and they can be held under the military as military detainees.

Now, $2.5 million per detainee is, by some estimates, 35 times the annual cost of housing a prisoner at a supermax security prison inside the United States. That does not include the more than $200 million in additional military construction requests that the Department believes it needs to spend to keep Guantanamo running in the coming years. I repeat: If this added to our security, it would be worth it. But it doesn't. We can bring these same people to the United States to be held as prisoners of war the way we did Italians and others during World War II. I had hundreds in my home State. If we added to our security by keeping Guantanamo open instead of just having a place which is used as a training ground and used as an argument for Jihad—but we can keep these people in the United States just as safely as Guantanamo in maximum security prisons or under the military jurisdiction with the same amount of security for the people of the United States at far less cost.

We are all facing sequestration. It is undermining the readiness of our Armed Forces, requires risky reductions in force structure, and makes it likely we are going to have to cancel or severely curtail vital modernization programs. We cannot afford to spend $500 million a year on a program that doesn't make us more safe.

The basis for the legislative obstacles to moving detainees out of Guantanamo appears to be the fear that returning Gitmo detainees to their home countries or transferring them to the United States would pose an unacceptable threat to our national security. But history has shown that we bring numerous terrorists to the United States for trial or incarceration. It has had no adverse effect on our national security. These prosecutions have resulted in hundreds of convictions on terrorism-related charges without apparent adverse effect to our national security. As the Attorney General wrote to Judiciary Committee Chairman LEAHY last week, terrorist prosecutions in Federal courts have been ''an essential element of our counterterrorism efforts'' and ''a powerful tool of proven effectiveness.''

In the last 3 years, we have brought three foreign terrorists into the United States for trial. We brought Abu Ghaith, Osama bin Laden's son-in-law, who has been convicted in Federal court and remains in Federal custody without incident. The second is Ahmed Warsame, who pled guilty in Federal court and remains in Federal custody without incident. The third is Ahmed Ghailani, who was convicted in Federal court, received a life sentence, and remains in Federal custody without incident. Again, there have been hundreds of convictions in this country of persons connected to terrorism in Federal courts.

Our military has routinely detained individuals on the battlefield in Afghanistan and then exercised their discretion to transfer them to local jurisdiction or to release them. If we can trust our military to make these determinations on a day-to-day basis for detainees in Afghanistan, we should be able to trust our military to make the same determination for detainees at Gitmo.

The rigorous review process which is codified by our bill's provisions requires the Secretary of Defense to determine, prior to transferring a Gitmo detainee, that the transfer is in our national security interest and that actions have been taken to mitigate any risk that the detainee could again engage in any activity that threatens United States persons or interests.

The provisions in this bill will get us past our fear that we cannot securely handle Gitmo detainees in this country. It would allow the Secretary of Defense to authorize Gitmo transfers to the United States for detention and trial if doing so is in the United States' security interests. This bill will restore the President's ability to choose the most effective tool—whether that is military commissions or Federal courts—to bring these Gitmo detainees to justice.

In conclusion, I urge our colleagues to support the Guantanamo provisions in the bill, vote for the Levin-McCain-Feinstein side-by-side amendment, and oppose the effort to reinstate the counterproductive and costly restrictions in current law.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, it is my understanding that at 4:00 there might be a unanimous consent which will lead us to a vote at 5:00. Is that correct?

The PRESIDING OFFICER. The Chair has no knowledge about a vote at 5:00.

The Senator from Michigan.

Mr. LEVIN. Mr. President, I yield the time between now and 4:00 to the Senator from Oklahoma.

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

Mr. INHOFE. Mr. President, it seems we are going to have an opportunity a little later on to discuss this tonight. In the capacity of the ranking member of the Armed Services Committee, I have to say that I can't imagine having a chairman with whom I cooperate and agree with on almost every issue like Chairman LEVIN. I really appreciate the work we have done together. We both recognize this is the most important piece of legislation each year, and we both recognize that, for 51 consecutive years, we have had this legislation. Nothing has come up to obstruct it. We also realize Republicans would prefer to have more opportunities to have amendments, and Chairman LEVIN has been very helpful in helping us to get that.

The area on which I don't agree is in the area of Gitmo and how it should be used. Every time I go to Gitmo, I shake my head and I say: Why in the world would we not use this resource? We don't have another resource like it. We heard the Senator from Georgia make the statement that he asked the chairman: If we don't have Gitmo to send these people, where are we going to send them? I believe it was Secretary of Defense Panetta who said: We don't know. There is not another place. We have used it successfully since 1904.

I often have said, and said yesterday, that we don't have many good deals in government. This is one that is. Since 1904, our rent on that territory has been $4,000 a year. I don't think anyone can come up with a better deal, and besides Castro doesn't collect it about half the time.

It is argued that we can use it for interrogation. The information we received which led to Osama bin Laden's demise was received from interrogation which took place at Gitmo.

When we talk about the treatment of people, the one thing that I discover every time I go down there is one of the chief problems they have in Gitmo is obesity because they are eating better than they have ever eaten at any other time in their lives. A primary care provider is there for every 450 detainees. They have never had that kind of treatment at any other time in their lives. The detainees receive age-appropriate colon cancer screening, TB screening, annual dental procedures, physical therapy, and all these things.

The idea that we would not be able to bring them to the United States for some more serious personal care I can't buy because we have the U.S. Naval Hospital at Guantanamo Bay. I have been there. They have approximately 250 personnel there who support the base's population of over 6,000.

When I look at this and I think of the options they have and this obsession the President seems to have to bring these terrorists into the United States, I have to share this one story. I know there is going to be a request here in just a moment. I can remember back 4½ years ago when this President first came in office—I am going from memory now—he had 17 places in the United States where he could put these terrorists. One happened to be in my State of Oklahoma, Fort Sill. He went down to look at the facility. The major who was in charge of it told me she had several tours of duty at Guantanamo. She said: Go back and tell those people in Washington we do not need to be spreading these terrorists throughout the continental United States when we have that great facility. She said she had been there twice and it is state-of-the-art.

I have a great fear, and that is that once we get a different administration here that realizes the value of Guantanamo Bay, it will be too late to go back and get it again. That is the reason we have been holding on to it with white knuckles.

The amendment we are going to be voting on in another hour or so, whenever it is set in, is going to be an amendment that will allow us to continue to use what I consider to be one of the most valuable assets we have in the system.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I am going to make a unanimous consent proposal which I understand has been cleared.

I ask unanimous consent that the pending motion to recommit be withdrawn; that the pending Levin amendment, No. 2123, be set aside for Senator AYOTTE or designee to offer amendment No. 2255 relative to Guantanamo; that the amendment be subject to a relevant side-by-side amendment, which is No. 2175, from Senators LEVIN, MCCAIN, and FEINSTEIN; that no second-degree amendments be in order to either of these Guantanamo amendments; that each of these amendments be subject to a 60-affirmative-vote threshold; that the time until 5 p.m. be equally divided between the two leaders or their designees; that at 5 p.m. the Senate proceed to vote in relation to the Ayotte amendment No. 2255; that upon disposition of the Ayotte amendment, the Senate proceed to vote in relation to the Levin-McCain-Feinstein amendment No. 2175; and that there be 2 minutes equally divided in between the votes.

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

Mr. LEVIN. I was going to say the time between now and 5 o'clock is equally divided, as I understand it, between the Senator from Oklahoma and myself.

I yield the floor.

The PRESIDING OFFICER. The Senator is correct.

AMENDMENT NO. 2255

Mr. INHOFE. On behalf of Senator AYOTTE, myself, and others, I call up amendment No. 2255 and ask the clerk to report by number.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Oklahoma [Mr. INHOFE], for Ms. AYOTTE, for herself, Mr. CHAMBLISS, Mr. INHOFE, Mrs. FISCHER, Mr. ENZI, and Mr. RUBIO, proposes an amendment numbered 2255.

The text of the amendment is printed in today's RECORD under ''Text of amendments.''

The PRESIDING OFFICER. The Senator from Michigan.

AMENDMENT NO. 2175

Mr. LEVIN. Mr. President, I call up amendment No. 2175.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for himself and Mr. MCCAIN, proposes an amendment numbered 2175.

The amendment is as follows:

(Purpose: To propose an alternative to section 1033, relating to a limitation on the transfer or release of individuals detained at United States Naval Station, Guantanamo Bay, Cuba)

Strike section 1033 and insert the following:

**SEC. 1033. LIMITATION ON THE TRANSFER OR RELEASE OF INDIVIDUALS DETAINED AT UNITED STATES NAVAL STATION, GUANTANAMO BAY, CUBA.**

(a) IN GENERAL.—Except as provided in subsection (b), none of the funds authorized to be appropriated by this Act for fiscal year 2014 may be used to transfer, release, or assist in the transfer or release to or within the United States, its territories, or possessions of Khalid Sheikh Mohammed or any other detainee who—

(1) is not a United States citizen or a member of the Armed Forces of the United States; and

(2) is or was held on or after January 20, 2009, at United States Naval Station, Guantanamo Bay, Cuba, by the Department of Defense.

(b) TRANSFER FOR DETENTION AND TRIAL.—The Secretary of Defense may transfer a detainee described in subsection (a) to the United States for detention pursuant to the Authorization for Use of Military Force (Public Law 107–40; 50 U.S.C. 1541 note), trial, and incarceration if the Secretary—

(1) determines that the transfer is in the national security interest of the United States;

(2) determines that appropriate actions have been taken, or will be taken, to address any risk to public safety that could arise in connection with detention and trial in the United States; and

(3) notifies the appropriate committees of Congress not later than 30 days before the date of the proposed transfer.

(c) NOTIFICATION ELEMENTS.—A notification on a transfer under subsection (b)(3) shall include the following:

(1) A statement of the basis for the determination that the transfer is in the national security interest of the United States.

(2) A description of the action the Secretary determines have been taken, or will be taken, to address any risk to the public safety that could arise in connection with the detention and trial in the United States.

(d) STATUS WHILE IN THE UNITED STATES.—A detainee who is transferred to the United States under this section—

(1) shall not be permitted to apply for asylum under section 208 of the Immigration

and Nationality Act (8 U.S.C. 1158) or be eligible to apply for admission into the United States;

(2) shall be considered to be paroled into the United States temporarily pursuant to section 212(d)(5)(A) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5)(A)); and

(3) shall not, as a result of such transfer, have a change in designation as an unprivileged enemy belligerent eligible for detention pursuant to the Authorization for Use of Military Force, as determined in accordance with applicable law and regulations.

(e) LIMITATION ON TRANSFER OR RELEASE OF DETAINEES TRANSFERRED TO THE UNITED STATES.—An individual who is transferred to the United States under this section may not be released within the United States and may only be transferred or released in accordance with the procedures under section 1031.

(f) LIMITATIONS ON JUDICIAL REVIEW.—

(1) LIMITATIONS.—Except as provided for in paragraph (2), no court, justice, or judge shall have jurisdiction to hear or consider any action against the United States or its agents relating to any aspect of the detention, transfer, treatment, or conditions of confinement of a detainee described in subsection (a) who is held by the Armed Forces of the United States.

(2) EXCEPTION.—A detainee who is transferred to the United States under this section shall not be deprived of the right to challenge his designation as an unprivileged enemy belligerent by filing a writ of habeas corpus as provided by the Supreme Court in Hamdan v. Rumsfeld (548 U.S. 557 (2006)) and Boumediene v. Bush (553 U.S. 723 (2008)).

(3) NO CAUSE OF ACTION IN DECISION NOT TO TRANSFER.—A decision not to transfer a detainee to the United States under this section shall not give rise to a judicial cause of action.

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Subsections (b), (c), (d), (e), and (f) shall take effect on the date that is 60 days after the date on which the Secretary of Defense submits to the appropriate committees of Congress a detailed plan to close the detention facility at United States Naval Station, Guantanamo Bay, Cuba.

(2) ELEMENTS.—The report required by paragraph (1) shall contain the following:

(A) A case-by-case determination made for each individual detained at Guantanamo of whether such individual is intended to be transferred to a foreign country, transferred to the United States for the purpose of civilian or military trial, or transferred to the United States or another country for continued detention under the law of armed conflict.

(B) The specific facility or facilities that are intended to be used, or modified to be used, to hold individuals inside the United States for the purpose of trial, for detention in the aftermath of conviction, or for continued detention under the law of armed conflict.

(C) The estimated costs associated with the detention inside the United States of individuals detained at Guantanamo.

(D) A description of any additional actions that should be taken consistent with subsections (d), (e), and (f) to hold detainees inside the United States.

(E) A detailed description and assessment, made in consultation with the Secretary of State and the Director of National Intelligence, of the actions that would be taken prior to the transfer to a foreign country of an individual detained at Guantanamo that would substantially mitigate the risk of such individual engaging or reengaging in any terrorist or other hostile activity that threatens the United States or United States person or interests.

(F) What additional authorities, if any, may be necessary to detain an individual detained at Guantanamo inside the United States as an unprivileged enemy belligerent pursuant to the Authorization for Use of Military Force (Public Law 107–40), pending the end of hostilities or a future determination by the Secretary of Defense that such individual no longer poses a threat to the United States or United States persons or interests.

(3) FORM.—The report required by paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

(h) INTERIM PROHIBITION.—The prohibition in section 1022 of the Fiscal Year 2013 National Defense Authorization Act (Public Law 112–239; 126 Stat. 1911) shall apply to funds appropriated or otherwise made available for fiscal year 2014 for the Department of Defense from the date of the enactment of this Act until the effective date specified in subsection (g).

(i) DEFINITIONS.—In this section:

(1) The term ''appropriate committees of Congress'' means—

(A) the Committee on Armed Services, the Committee on Appropriations, and the Select Committee on Intelligence of the Senate; and

(B) the Committee on Armed Services, the Committee on Appropriations, and the Permanent Select Committee on Intelligence of the House of Representatives.

(2) The term ''individual detained at Guantanamo'' has the meaning given that term in section 1031(e)(2).

Mr. LEVIN. I understand we have a Senator on the way. I suggest the absence of a quorum unless someone else wishes to be recognized. I ask that the time on the quorum call be equally divided unless someone else seeks to be recognized at this time.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. INHOFE. Mr. President, during this pause, if someone comes down to talk about the two amendments that will be voted on at 5 o'clock, I will be happy to defer to them. But I think it is important that we understand we are finally making some headway in getting into this Defense authorization bill. It seems as if every year for 51 years now we have been able to get it through. While other bills become controversial, get to a point where they cannot go any further, that does not happen with the Defense authorization bill. It is one that has to take place.

As the Republican ranking member of the Senate Armed Services Committee, let me say, as I have said before, I thank my friend and colleague the chairman CARL LEVIN for his leadership in marking up this bill. It has always been difficult. In most cases we agree with each other. We happen to be looking at an amendment now where we disagree. But I always consider the NDAA bill as the most important piece of legislation in Congress every year. It contains authorizations that support our men and women serving in harm's way, all the way in Afghanistan and around the world. It supports the training of our servicemembers and maintenance and modernization of their equipment. It authorizes research and development; that is, R&D efforts that will ensure that we maintain technological superiority over our enemies and can defeat the threats of tomorrow. Most important, it provides for the pay and benefits for the brave men and women who have made their sacrifices and are putting their lives at risk for our benefit. However, it is important to note this year—and this has not happened before, in my memory—the bill provides all of these vitally important efforts only as the reduced spending levels would allow.

In an era increasingly defined by bipartisan gridlock, the NDAA is one of the rare occasions where Members of both parties can come together. This enduring commitment was exemplified again this year by the overwhelming bipartisan support we had for the bill that came out of our committee—bipartisan support. We want, of course, to have that same bipartisan support here on the floor. Hopefully we will be able to get this done by the end of this week.

Consideration of this year's NDAA comes at a time in our national security when we face more volatile and dangerous times than we ever have in the history of this country. Chaos and violence are on the rise in the Middle East and north Africa. Al Qaeda is growing and establishing new safe havens from which to plan and launch attacks against the United States. We have rogue nations, such as Iran and North Korea. It is not the way it was in the old days—I have often said the good old days—of the Cold War where we had an enemy and that enemy was predictable. We knew that enemy.

Remember, we used to have this thing called mutual assured destruction. That meant something then, but it doesn't mean anything now because our potential enemies out there want to be destroyed. They have a different mentality than they used to.

Iran and North Korea are developing their nuclear capability and delivery systems. Our intelligence has told us that Iran will have a weapon and a delivery system. All the way back in 2007 they said they would have it by 2015. That is a year and a half from right now. I tell the Chair that they are going to have that capability. The threats are much more serious to us now.

When I say this is the first time we have faced the crisis we are facing now, it is not just because the enemy is out there. I am talking about an enemy who will have the capability of sending a weapon over and delivering it to the United States, but at the same time over the last 5 years of this administration the military has already endured a

$487 billion cut. That is $487 billion out of the defense budget. That is before sequestration.

Now we have sequestration—an outcome once thought to be so egregious, I can remember that as recently as less than a year ago, we thought: We are not going to have this. After $487 billion being pulled out of the military, we cannot also have sequestration, which will be the $½ trillion that will come out in the next period of time. So we didn't think it would happen, but it did happen.

We are now into what, our seventh or eighth month of sequestration. In total, our military men and women stand to endure over a $1 trillion slash from their budget. These cuts are forcing a dramatic decline in military readiness and capabilities.

I talked to General Odierno yesterday. He is Chief of Staff of the Army. He recently said that his forces are at the—I am going to quote now—''lowest readiness levels I have seen within our Army since I've been serving for the last 37 years'' and that only two brigades are ready for combat. That is our U.S. Army. We have never had that confession made. It is a level of desperation where they are willing to come out and talk of it. We cannot sustain another $½ trillion in cuts.

Admiral Greenert, Chief of Naval Operations, said that ''because of fiscal limitations and the situation we're in, we don't have another strike group trained and ready to respond on short notice in case of emergencies. We're tapped out.'' That is the CNO of the Navy.

Our top military leaders now warn of being unable to protect America's interests around the world. Keep in mind, Admiral Winnefeld is the No. 2 person in line. He is the Vice Chairman of the Joint Chiefs of Staff. Admiral Winnefeld, who has been there nearly 40 years, stated earlier this year that ''there could be, for the first time in my career, instances where we may be asked to respond to a crisis and we will have to say we cannot.''

General Dempsey, the No. 1 guy, Chairman of the Joint Chiefs of Staff, has warned that continued national security cuts will ''severely limit our ability to implement our defense strategy. It will put the nation at greater risk of coercion, and it will break faith with men and women in uniform.''

This is why I am so troubled by the disastrous path we are on. In the face of mounting threats to America, we are crippling the very people who are vital to our security—the men and women in uniform.

To be clear, our military was facing readiness shortfalls even before sequestration took effect. Nearly 12 years of sustained combat operations have really worn down our forces and their equipment. In order to meet the spending caps mandated by sequestration, the military services are being forced to starve the accounts necessary to repair and reset their forces.

Rather than rebuilding the ability of our military to defend the country, we are digging ourselves deeper into a hole. The longer we allow military readiness and capabilities to decline, the more money and time it will take to rebuild.

We already know this is the case based on what happened in fiscal year 2013. For example, General Welsh, Chief of Staff of the Air Force, said that because of the first round of sequestration cuts he was ''forced to ground 33 squadrons''—he's talking about fighter squadrons—''including 13 combat-coded squadrons and an additional seven squadrons were reduced to basic 'take-off and land' training. It will now cost a minimum of 10 percent more flying hours to fully retrain the grounded squadrons . . . '' What he is saying is that when it was mandated that he take down 33 squadrons—which happened around April—then in July, 3 months later, they said, you can start working the squadrons again—he is saying that it costs more to retrain and bring these people back up in these proficiencies than it saved during that 3-month period of time.

He specifically said that it will now cost a minimum of 10 percent more flying hours to fully retrain the grounded squadrons than it would have to simply keep them trained all along. We heard that from several other top people as well.

I talked to General Amos yesterday. He is with the Marine Corps. He said he has approximately $800 million in critical military construction funding that they will be unable to execute under sequestration—assuming they go through with sequestration. By the way, I have not given up on stopping the military sequestration that is damaging our ability to defend ourselves.

General Amos said that the military construction funding will be unable to execute under sequestration and will need to be deferred. Further, it will cost over $6.5 billion to buy back orders of the V–22s, joint strike fighters, Hughes, and Cobras. Those are four platforms we would have to bring back at the additional cost of $6.5 billion that we otherwise would not have spent.

On Monday Admiral Greenert told me that under the current budget environment he will be forced to defer much-needed ship maintenance, costing a 15- to 20-percent increase in total costs.

In other words, the things they are doing now to meet these line-by-line mandates of reductions are not saving money but costing money. Under sequestration, we will lose one Virginia-class submarine, one littoral combat ship, one afloat forward staging base, development of an Ohio-class replacement submarine program. They will all be delayed, which again will result in an increased price.

So not only is sequestration gutting our military capabilities, it ends up costing American taxpayers more than it will save. We are falling victim to the misguided belief that as the wars of today wind down, we can afford to gut investments in our Nation's defenses. It is irresponsible and makes America less safe.

I remember going through the same thing back in the 1990s when the chant at that time was the cold war is over, so we no longer need that strong of a defense. We heard it from both sides, and now we are going through the same thing. History reminds us we cannot dictate when and where the next conflict is going to arise. Instead, if we allow the continued dismantling of our military, we will be less safe and less prepared to defend our country. If our military men and women are called upon, their ability to accomplish the mission will be undermined, and tragically, more will lose their lives unnecessarily.

We had the top military people in our Armed Services Committee, and I asked them about this issue. They talked about the loss of readiness—risk equals lives. When you take on more risks, you lose more American lives.

General Amos, Commandant of the Marine Corps, testified that if he is tasked to respond to a contingency in the current budget environment:

> We would have fewer forces, arriving less trained, arriving later to the fight. This would delay the build-up of combat power, allow the enemy more time to build up their defenses, and likely prolong combat operations altogether. This is a formula for more U.S. casualties.

Such an outcome would be immoral and a dereliction of duty. If we expect the men and women in our military to go in harm's way to protect America, we have an obligation to provide them with the training, technology, and capabilities that is required to decisively overwhelm any adversary at any time and return safely to home and their loved ones.

I can remember when they used to use a different term than they use today. Today they call it nature of military operations. It used to be defending America on how many fronts. Since World War II, there were always two fronts, and now we are down to where it would be hard to do it on one front, and that is why this bill is so important and why protecting the readiness of our military men and women remains my top priority. However, something has to be done to mitigate any devastating impact of readiness, so we must find long-term solutions. Every day that goes by without action will only increase the damage.

I do have an amendment that would phase sequester in a way that would allow our senior military leaders to enact reforms without disproportionately degrading our military so we can continue to train and prepare our military women and men.

My good friend the Senator from Alabama and I are joining forces. We have an amendment that is going to allow some degree of latitude and flexibility.

So while we are living under the same budget constraints we are under today, they can make some decisions where it is not just an online reduction. I have just finished talking about how much more that will end up costing us.

I see now we have someone else who has come to the floor to be heard. I want to repeat how much I appreciate the chairman of the committee CARL LEVIN for his cooperation with our side. He is trying to get this to become a reality and get this bill passed hopefully this week.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I yield 15 minutes to the senior Senator from California.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I rise to support the Levin-McCain amendment, and I have added my name as a cosponsor. I would also like to speak in support of provisions authored by Chairman LEVIN that are in this year's National Defense Authorization Act, which provides more flexibility that the President and Secretary of Defense need in order to move detainees from Guantanamo.

I strongly support the Levin-McCain-Feinstein amendment. Here is what it would do: It would clarify that Guantanamo detainees transferred to the United States for law of war detention do not have any additional rights or benefits such as the right to claim asylum. So it limits it.

It would clarify that Gitmo detainees transferred to the United States may not be released from law of war detention into the United States.

Finally, it would require a detailed plan to be submitted to Congress on how to close Guantanamo, including the specific facilities intended to be used to hold detainees inside the United States.

I have heard Senator MCCAIN talk about this, request it, and I believe it is a very valid need.

It has been 12 years since the attacks of 9/11 and the United States invasion of Afghanistan. In the ensuing years 779 people were brought to Guantanamo without charge, and for many of them, simply for being at the wrong place at the wrong time. Most of the 164 left have been held for more than 10 years. Those transferred to Guantanamo from CIA custody in black sites have been there now for 7 years. Unfortunately, we still have not figured out a way to close Guantanamo.

President George W. Bush called for it to be closed. So did former Secretaries of State Condoleezza Rice and Collin Powell, as well as former Secretaries of Defense Bob Gates and Leon Panetta, among others.

In fact, here is what President Bush wrote on pages 179 and 180 of his memoir Decision Points:

. . . there are things I wish had come out differently. I am frustrated that the military tribunals moved so slowly. Even after the Military Commissions Act was passed, another lawsuit delayed the process again. By the time I left office, we held only two trials. The difficulty of conducting trials made it harder to meet a goal I had set in my second term: closing the prison at Guantanamo in a responsible way. While I believe opening Guantanamo after 9/11 was necessary, the detention facility had become a propaganda tool for our enemies and a distraction for our allies.

While I would like to go much further and close the facility immediately, the provisions in this bill will ease the transfer restrictions so that detainees can be held in other countries or tried, convicted, and put in a proper maximum security facility in the United States.

There are three categories of detainees left at Guantanamo:

First, 46 detainees will continue to be held on preventive detention, meaning they are being held under international law until the end of hostilities—whenever that may be. It could be years; it could be decades.

Second, 34 detainees have been slated for prosecution, and of those three detainees have already been convicted in a military commission and are still serving their time at Guantanamo. But most of these 34 detainees have not even been charged, and there is no indication when they will be.

The final category is the largest—84 of the 164 detainees currently at Guantanamo were cleared for transfer by a 2010—that's 3 years ago—interagency process carried out by our national security and intelligence agencies. But current law needlessly complicates efforts to transfer those 84 men.

President Bush transferred over 530 detainees from Guantanamo during his time in office and, unfortunately, many went on to commit terrorist acts because there were no individual assessments done on each detainee. But these individual assessments have been carried out by the Obama administration.

Despite his commitment to close Guantanamo, President Obama has been able to transfer only 67 detainees during his first term, and only two recommended for transfer have been successfully sent home under the burdensome procedures now in place. More are on the way, but this is an unacceptable delay because the government cleared these detainees for transfer years ago.

Sections 1031, 1032, and 1033 of this bill will give the President more flexibility to transfer these detainees out of Guantanamo. It is long overdue. I thank the chairman, who is sitting in front of me, and the ranking member for these provisions. But even under these provisions, the Secretary of Defense would still have to certify that the transfer is in our Nation's security interests and that appropriate steps have been taken to address the risk of recidivism. Congress would have to continue to be notified of such transfers.

In March of this year, Lt. Gen. John F. Kelly, the head of the U.S. Southern Command which has military responsibility for Guantanamo, testified to Congress about the massive hunger strikes that were going on at the time and said the detainees were devastated at the lack of transfers and the government's failure to execute plans to close it as the President has promised.

In June of this year, I traveled to Guantanamo with Senator MCCAIN and the President's Chief of Staff to see this devastation for myself. On our trip, we saw the process that is used to retain the detainees as they are forced from their cells and brought in to be force fed. We did not see a detainee being force fed, but we saw the tube that is forced up their nose and down their throat into their stomach. It is coated with olive oil or Lanacane, if necessary, and it is done daily. We saw the restraints—at the legs, the arms, and the head where detainees are held—not too different from the image of a death row convict in an electric chair.

I said at the time and I will say it again today, the military and civilian personnel at work on Guantanamo are carrying out their duties with dedication, skill, and honor. My opposition to continued detention at Guantanamo is not an indictment against them; it is with a failed and bankrupt policy, including here in Congress, and now is the time to change it.

Another thing that struck me is the enormous costs we are sinking into this isolated facility each year. Detention operations at Guantanamo now total approximately $5 billion since the facility opened in January of 2002. According to the most recent estimates provided by the Department of Defense, the total cost for fiscal year 2013 is estimated to be $454.1 million, which equals approximately $2.8 million per detainee. That works out to be more than 35 times the cost to hold the prisoner in a supermax facility in Florence, CO. This supermax facility currently houses a number of Al Qaeda terrorists, including Zacarias Moussaoui, Shoe Bomber Richard Reid, and the would-be Christmas Day Bomber Umar Farouk Abdulmutallab.

In this era of sequestration and furloughs, how can we justify spending approximately $2.8 million per Guantanamo detainee?

Now, even with near unanimous support across the current and past administration to close the structure, some appear to question whether there still is a national security need to shutter the facility. I believe it is clear that Guantanamo is still a symbol that motivates our enemies and draws more and more young Muslims to fight against the United States.

This is not just my determination but also the finding of our intelligence community. Last week, Director of National Intelligence James Clapper wrote to the Senate Intelligence Committee noting his support for the closure of Guantanamo in which he offered the following examples of how Al

Qaeda and its affiliates continue to reference Guantanamo in furtherance of their global jihadist goals.

Al Qaeda leader Ayman Zawahiri, in an audio statement in July of this year, cited the detention without trial of Gitmo prisoners as one indication of American hypocrisy and indiscriminate persecution of innocent Muslims. An article about the Boston Marathon bombings, in the most recent edition of Al Qaeda in the Arabian Peninsula's ''Inspire'' magazine—this is kind of a diabolical magazine that Al Qaeda puts out and this is one published in June—highlighted the ongoing detention of prisoners at Gitmo as one of the purported justifications of terrorist attacks such as 9/11 and the Boston Marathon bombings.

Here is what the article said:

If we note down all that has been and is still being carried out by America against Muslim nations, we will run out of pages. . . . There is also the secret prisons and black sites file, we could not miss out Guantanamo Bay detention camp. The American Nation should have a good grasp of all of these and other historic facts so that they can comprehend the background and the context of the Boston Marathon operation, Detroit, September 11 and other operations which are barely a wave of anger; vengeance.

Furthermore, Guantanamo is referenced 20 times in the previous 10 issues of ''Inspire'' magazine.

I ask unanimous consent to have printed in the RECORD the letter from the DNI dated November 12, 2013.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DIRECTOR OF NATIONAL INTELLIGENCE
*Washington, DC.*

Hon. DIANNE FEINSTEIN,
*Chairman, Select Committee on Intelligence, U.S. Senate, Washington, DC.*

Hon. SAXBY CHAMBLISS,
*Vice Chairman, Select Committee on Intelligence, U.S. Senate, Washington, DC.*

DEAR MADAM CHAIRMAN AND VICE CHAIRMAN CHAMBLISS: As the Senate considers provisions of the FY14 National Defense Authorization bill that would lift Guantanamo detainee transfer restrictions. I would like to provide the Intelligence Community's views of the national security implications in maintaining the Guantanamo Bay detention facility (GTMO).

Al-Qa'ida, its affiliates, and its allies this year continued to reference the detention and purported mistreatment of the detainees at GTMO in furtherance of their global jihadist narratives. The references to GTMO by al-Qa'ida and affiliated organizations include:

Al-Qa'ida leader Ayman al-Zawahiri in an audio statement in July 2013 citing the detention without trial of GTMO prisoners as one indication of American hypocrisy and indiscriminate persecution of innocent Muslims and calling for all al-Qa'ida prisoners at GTMO to be released.

An article about the Boston marathon bombings in the most recent edition of AQAP's Inspire magazine in June highlighting the ongoing detention of prisoners at GTMO as one of the purported justifications to engage in jihad.

As these examples illustrate, closing the Guantanamo Bay detention facility would deprive al-Qa'ida leaders of the ability to use alleged ongoing mistreatment of detainees to further their global jihadist narrative. In an effort to disrupt the narrative used by terrorists, I support the President's priority of closing the detention facility.

Sincerely,

JAMES R. CLAPPER.

Mrs. FEINSTEIN. Mr. President, I just visited the 9/11 memorial this past Saturday and was extraordinarily moved by that memorial. It is an amazing place. It really brings to one's heart the gravity of what that situation was. We then went down to the museum and I saw exactly where the plane went through the steel superstructure and the staircase where hundreds of our people fled with smoke following them down those stairs. We must prevent another 9/11.

I note there is a letter from certain members of the September 11th Families for Peaceful Tomorrows that has been sent to us in favor of this bill and the detainee transfer provisions in the bill. I ask unanimous consent to have printed in the RECORD the letter from the September 11th Families for Peaceful Tomorrows.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PEACEFUL TOMORROWS,
*New York, NY, November 18, 2013.*

DEAR SENATOR: We are writing to ask you to support the Guantanamo detainee transfer provisions included in the National Defense Authorization Act (NDAA) for Fiscal Year 2014, as reported out of the Senate Armed Services Committee (SASC). We are all family members of those killed in the 9/11/2001 terrorist attacks. Since that tragic event, we have worked together as members of September 11th Families for Peaceful Tomorrows [http://www.peacefultomorrows.orgl for long-lasting solutions to the violence that claimed our loved ones' lives.

In recent years, Guantanamo prison and the on-going Military Commission hearings for the 9/11 suspects at Guantanamo have been a particular focus of our concern and action. We believe closing Guantanamo is good human rights policy and good national security policy. The Guantanamo provisions in the Senate NDAA provide the necessary flexibility to execute that policy responsibly. We urge your support of the Guantanamo provisions in the Senate NDAA and urge you to vote ''no'' on any amendments that would further restrict transfers.

When Peaceful Tomorrows first organized, we committed to working together to promote U.S. foreign policy that places a priority on internationally-recognized principles of human rights and to calling attention to threats to human rights that might result from U.S. responses to 9/11. Guantanamo has become a stain on our national reputation. Today, it is simply no longer sustainable—ethically, strategically, or financially.

We are keenly aware of the continuing injustice of holding the 164 prisoners now at Guantanamo prison without trial for these many years. These prisoners have been denied the justice which Americans take pride in as a source of national strength. At the same time, our 9/11 family members continue to be denied justice by the seemingly imperceptible progress of trying those prisoners under the current military commissions. We advocate the immediate release of those who have been cleared for release, and the transfer of the remaining prisoners to be tried in US federal courts, which have successfully tried and convicted scores of terrorists in the past decade.

More than half of the Guantanamo detainees have long been cleared for transfer by our own national security and intelligence agencies. Current law has needlessly complicated moving these cleared detainees. This law must be revised. The SASC foreign transfer provisions will do that while ensuring that any risks are far outweighed by the dangers of continuing the status quo. Major General Paul Eaton (Ret.) has cautioned that unless we institute change, Guantanamo will serve as ''a recruiting tool of the first order'' for those who wish us harm, while damaging cooperation with our allies on counterterrorism that will result in lost intelligence opportunities. Worse yet is the effect it has had on Americans, corrupting their faith in American values that has taken centuries to build.

To continue to spend nearly $2.7 million per detainee, per year makes no sense at a time when Congress is wrestling with deep budget cuts. We can institute an intelligent, factor-based system that will allow the Secretary of Defense to explain to Congress whether a transfer is in America's national security interests, and the steps that will be taken to mitigate any risk of a detainee engaging in terrorist activities after release.

In his May speech at the National Defense University, President Obama recommitted his administration to closing Guantanamo. Since that time, the administration has appointed envoys at the Departments of Defense and State to oversee the closure of Guantanamo. This is absolutely the right thing to do now, but Congress must also do its part.

The Guantanamo provisions in the Senate NDAA clarify and modify the President's authority to transfer detainees to foreign countries and provide important additional flexibility to close Guantanamo responsibly. They replace a cumbersome certification and waiver regime with sensible, factor-based standards designed to minimize risks. They lift the ban on transfers to the United States for criminal prosecution, which is critical now that we see how federal criminal courts offer a more experienced and less costly way to try terrorism suspects than the flawed, costly, inefficient, and perhaps unconstitutional, military commissions system at Guantanamo Bay. The experiment of the military commissions of the 21st century has proven inadequate to its promises of justice, transparency, fairness and speed.

It is more than twelve years after the heinous attacks in which our loved ones died. During that time some of our fellow 9/11 family members have died waiting to see justice done. Enough is enough! It is time for the U.S. to demonstrate its commitment to the rule of law by moving detainees cleared for release out of Guantanamo, by making federal trials for those who are accused of terrorist crimes possible, and by taking steps to close the Guantanamo facilities that have earned the U.S. the enmity of the world. We exhort you to pass the NDAA without transfer restrictions on Guantanamo prisoners, and help to bring this horrible chapter to a close in our lifetimes.

Our relatives died on 9/11; they would never have wanted the U.S. to compromise its principles in their names, nor do we.

Sincerely,

THE MEMBERS OF SEPTEMBER 11TH FAMILIES FOR PEACEFUL TOMORROWS.

Mrs. FEINSTEIN. Mr. President, by the end of President Obama's term in office, some detainees will have been held at Guantanamo without charge or trial for 15 years—15 years. We need to change this outcome, and we can do so

with no threat to our Nation's security.

For one detainee, Ibrahim Idris, his physical and mental problems at Guantanamo have gone on for so long that the government decided to finally drop its opposition to his legal argument that he is far too sick to stay locked up. There are others at Guantanamo who are desperate and in need of medical treatment.

The PRESIDING OFFICER. The time of the Senator has expired.

Mrs. FEINSTEIN. Mr. President, if I may finish this paragraph.

Mr. LEVIN. Mr. President, I yield an additional 2 minutes to the time of the Senator from California.

Mrs. FEINSTEIN. I thank the chairman.

That is why section 32 of this Defense bill will allow the Department of Defense to temporarily transfer Guantanamo detainees to the United States for emergency or critical medical treatment. No one is talking about releasing these detainees into the United States. The section is about providing medical care to people in our custody.

The other Guantanamo provisions in this year's defense bill clarify and improve the existing authority to transfer detainees out of Guantanamo, to other nations, responsibly. Specifically, Section 1031 replaces a cumbersome six-part certification requirement and partial waiver regime in current law with a more sensible, factor-based standard designed to mitigate any risks, but allow transfers to foreign countries and into the U.S. for criminal prosecution.

Let me be clear about this last point: Al Qaeda terrorists should be transferred to the U.S. for prosecution in Federal criminal courts because for some of them, Federal criminal court is the only option left besides indefinite detention or release.

I regret to say this, but the military commission system at Guantanamo has failed. Although the issue is being appealed, under current law, the military commission system cannot be used to prosecute the terrorists at Gitmo for the crimes of material support and conspiracy, which are two crimes commonly charged in federal criminal court. That restriction has complicated the efforts of the military prosecutors to convict terrorists.

Don't we want the chance to bring these terrorists to justice instead of releasing them or holding them forever without charge? Wasn't the reason we passed these criminal penalties into law so that they could be used against terrorists such as those Al Qaeda members who conspired against the United States, or aided the terrorists involved in the attacks of September 11?

Now that we have been able to observe the different iterations of the military commission system over the years, it is clear that it does not provide swift justice for either the detainees or the victims who want to see these accused terrorists brought to justice. Consider the following information about the military commission system.

Military commission prosecutions have led to short sentences and zero death penalty convictions.

Three of seven individuals convicted in military commissions are already out of prison living freely in their home countries of Yemen, Australia, and Sudan. A fourth detainee who was convicted could be released from Guantanamo later this year, a fifth is serving his sentence in Canada, and a sixth now has his case on appeal.

Military Commissions at Guantanamo have cost the U.S. $600 million since 2007. That's $600 million to prosecute seven people.

By comparison, Federal criminal courts offer a more experienced and less constitutionally risky venue. There have been 533 terrorism-related convictions in Federal criminal courts since 9/11.

The President should have the option to add some of the detainees currently at Guantanamo to that conviction list. Section 1033 of this year's defense authorization bill will allow the Secretary of Defense to transfer Gitmo detainees to the U.S. for detention and trial if the Secretary of Defense determines that, No. 1, doing so is in the U.S. national security interest, and No. 2, that public safety issues have been addressed.

Allowing detainees to be brought to the U.S. and charged in Federal court will work to put an end to the delay of justice and the extreme cost of the experimental justice system at Guantanamo Bay. It is the quickest and best way to ensure detainees will answer for their terrorist crimes and serve out long prison sentences.

For those relatively few detainees who can't be tried but instead have been slated for continued detention until the end of hostilities, bringing them to the United States presents a more cost-effective and less controversial option. Facilities in the United States are up to the task. I don't believe there is any more risk of a Guantanamo detainee escaping from a maximum security facility than there is from a prisoner getting out of Supermax. It has never been done.

I know transferring Guantanamo detainees out of the facility where they have been for 10 or more years is not politically popular. These are not easy decisions, but we have to consider the alternatives.

Do we want 84 detainees who have been cleared for transfer to other countries to languish in our prison any longer? Again, ''cleared for transfer,'' doesn't mean these detainees will automatically go free. ''Cleared for transfer'' means they could still be detained by foreign governments after they are transferred.

Do we want detainees who could be prosecuted quickly and serve long prison sentences to avoid being brought to justice any longer?

Isn't it time to close Guantanamo once and for all? I believe Guantanamo is, has been, and always will be a dark spot on our history, so the sooner we get rid of it, the better.

I support the Guantanamo language included in this bill by Chairman LEVIN and ask my colleagues to support the Levin-McCain Amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I yield 5 minutes to the Senator from Colorado.

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

Mr. UDALL of Colorado. I thank the chairman of the Armed Services Committee.

Mr. President, I rise, as the Senator from California did, in support of a tough, adaptable, and smart national security policy. What do I mean by that? In this case, that means we ought to support provisions that provide the Department of Defense and the President with the flexibility necessary to transfer certain detainees from the detention facility at Guantanamo to face justice in other venues. In that context, I am proud to join Chairman LEVIN and Senator MCCAIN and Senator FEINSTEIN in sponsoring this important bipartisan amendment. For a number of reasons, I strongly believe its passage would strengthen our national security and is in the best interests of our country.

I am joined in that assessment by the Director of National Intelligence, the Secretary of Defense, and many other senior national security leaders, including at least 38 retired generals and admirals who helped to prosecute the war against Islamic extremists.

This amendment does not close Guantanamo. It doesn't require the release of detainees into the United States or force the transfer of suspected terrorists to foreign countries. This amendment simply provides the administration with the flexibility to bring justice to Gitmo detainees in the most effective, efficient means possible.

The fact is that civilian courts have convicted over 400 suspected terrorists since 2001. The conviction rate for terrorist suspects in article III courts; that is, civilian courts, is nearly 90 percent. During the same period, a grand total of seven detainees at Guantanamo have been convicted by military commissions, and of those seven, two convictions were overturned.

There are circumstances in which military commissions are appropriate. I would agree with some of my colleagues that there are detainees held at Guantanamo who should face trial in a military commission. But the fact is that in many cases the civilian court system is faster, it is more efficient and more effective at bringing terrorists to justice than military commissions. So why would we handcuff ourselves and limit our options to bring accused terrorists to justice?

Our enemy already knows we are tough. We have pursued them all over the globe. We have eliminated their leaders and we have killed or captured many of their followers. But we can be tough and we can be smart at the same time. Handcuffing our military and Justice Department in their efforts to bring our enemies to justice is simply shortsighted and counterproductive. Doing so only impedes justice, erodes the image of the United States, and serves as a recruiting tool for a new generation of terrorists.

According to the Defense Department, we are spending about $450 million a year to keep Gitmo open. And the DOD is going to need hundreds of millions more for upgrades and repairs if the facility stays open. That situation is unsustainable, especially at a time of sequestration and rising budget deficits. Without action by Congress, those costs will continue to climb as detainees get older and sicker, and our moral standing will suffer the longer we hold people without trial.

Based on evidence, I have faith in our justice system to secure convictions in terrorist cases. We have a system of justice second to none and prisons that already hold some of the most dangerous criminals in the world. There is no question that these individuals who have been convicted and sentenced will be detained for the rest of their lives with no risk to our citizens.

We have proven it time and time again. As a member of the Armed Services and Intelligence Committees, I receive frequent briefings and reports on our counterterrorism efforts around the world. I know this: I know this amendment will let us continue to prove it again and again in the future.

In sum, the Levin-McCain-Feinstein-Udall amendment benefits our national security and should be passed by the Senate without delay.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. There is 4 minutes 15 seconds.

Mr. LEVIN. I ask unanimous consent that I be able to yield an additional 5 minutes above the 4½ minutes to Senator DURBIN. I understand if that means there is less time left than allotted to the other side, I would ask unanimous consent that additional time be used at 5 o'clock and the vote would then occur a few minutes after 5.

The PRESIDING OFFICER. Is there objection?

Mr. INHOFE. Mr. President, I do not object, but specifically we have a request by the prime author of this amendment to be under consideration at 5 o'clock to have 5 minutes. So I assume the thrust of the Senator's UC request is to give her 5 minutes, even if it happens to fall starting at 5 o'clock.

Mr. LEVIN. Is the Senator from New Hampshire available at 5 minutes to 5? If that is true, I ask unanimous consent that I be allowed to modify that previous UC request to provide 10 minutes to the Senator from Illinois and the last 5 minutes to the Senator from New Hampshire.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Illinois.

Mr. DURBIN. Mr. President, first, let me thank my colleague and friend from the State of Oklahoma for yielding time and the Senator from Michigan for manufacturing this close so both sides will be heard as we come to this important vote.

For 11 years now—for 11 years—I have been coming to the Senate floor giving speeches about closing Guantanamo. This is my 66th speech calling for the closure of Guantanamo. This year I held a hearing in the Senate Judiciary Subcommittee on the Constitution, Civil Rights and Human Rights. I brought in military experts, and I asked them: Do we need Guantanamo? Here is what they said. In fact, here is what we heard from Retired MG Paul Eaton, who served for 30 years in the Army and was the commanding general of the Coalition Military Assistance Training Team in Iraq. He said:

> Guantanamo is a terrorist creating institution and is a direct facilitator in filling out the ranks of Al Qaeda and other terror organizations that would attack the U.S. or our interests.

General Eaton said:

> Guantanamo, in military terms, is a recruitment tool of the first order.

Then I went down to the Southern Command in Miami, FL, and I met with the generals there who have the responsibility of running Guantanamo. When I asked them about Guantanamo, there was a sadness that came over the conversation, and they talked about how difficult it was—with about 160 or 165 detainees remaining down there—how difficult and how expensive it was for them to maintain that facility. They accepted it. It was part of their responsibility being in our military. But they basically said to me: When is Congress going to accept its responsibility?

The Levin-McCain amendment before us accepts our responsibility.

Let's get down to the bottom line. Whether you think these terrorists should be at Guantanamo or not in Guantanamo, let's talk about something very basic and very simple. How much does it cost for us to keep in prison one person in Guantanamo for 1 year? It is $2.7 million—$2.7 million per prisoner per year.

How much does it cost the Federal taxpayers to take the most dangerous, blood-thirsty, deadly individual we convict in our criminal courts and put them in the Florence supermax facility in Colorado, where no prisoner has ever escaped? Mr. President, $70,000 a year.

What are we trying to prove? Are we trying to prove in Guantanamo how much money we can spend—let me add waste—on a facility that is totally unnecessary?

I asked the Director of the U.S. Bureau of Prisons a very basic question: If we sent the most dangerous terrorist at Guantanamo to Florence, CO, what is the likelihood that person would escape? He said: Zero. They do not escape from our supermax facilities.

So we are not keeping America safe by wasting—wasting—$450 million a year in Guantanamo. We know that roughly half of those who are being held at Guantanamo should be released. They are not going to be tried for a crime at this point. They should be released. What the Levin-McCain amendment does is to set up an orderly, thoughtful, sensible way for the transfer of these prisoners.

Why do we keep this Guantanamo open? What is the point? It is as if some lobbyist has us enthralled that we have to keep Guantanamo open. It is not about national security anymore. It is not about the cost of incarceration anymore. It is about something else that I cannot even define.

So what we need to do is to take those remaining in Guantanamo who can be charged, charge them, try them, incarcerate them. Those who are going to be a danger to the United States should never see the light of day. But why would we continue to waste $2.7 million per year per prisoner to keep Guantanamo open?

Throughout its history, Guantanamo has had a checkered past. It is part of Cuba. We send the Cuban Government each year a rental check for the Guantanamo facility. They never cash it. They may tear them up. They do maintain the minefield between Guantanamo and the rest of the Island of Cuba to make sure there is no travel between the two, not that anyone would try. That is it. We maintain this facility because in the earliest days of our fight against terrorism after 9/11, there were legal counsels in the White House, such as John Yoo, who said that Guantanamo Bay was the ''legal equivalent of outer space.'' We could put people there. They will have no rights and no one will ever know. How wrong he was.

Guantanamo has become such a sad symbol that it is time for it to be closed, and it is time for us to do it in a thoughtful, sensible, honorable way, as every great nation should. To maintain Guantanamo for some bragging right that I cannot even describe on the floor is simply unacceptable.

I am going to be opposing the amendment that is offered by the Senator from New Hampshire and supporting the Levin-McCain bipartisan amendment, which I think deals with this issue in a thoughtful and reasonable way.

Do you want to keep America safe? Take those prisoners, those convicted terrorists, and put them in a supermax facility. If you say to yourself, oh, we don't put known terrorists and convicted terrorists in our Federal prison system, how wrong you are. They are all over our Federal prison system. We have convicted terrorists who are incarcerated in Marion, IL. Drive down

to southern Illinois and no one even knows it because they will never see the light of day—never.

So in terms of safety in America, we know how to keep America safe. We also know when we are wasting money. At this point in time, we are wasting money with this Guantanamo facility.

Let's transfer those for detention and trial into the appropriate places and have them tried successfully. I think we have had perhaps six or seven tried by military commissions—only six or seven—since 9/11, and two of those were reversed. Most of them go into our court system. Even when they read them Miranda rights, it does not stop the convictions. The convictions come through regularly because our people know how to convict those who would threaten the United States and make it dangerous.

It is worth taking a moment to recall the history of Guantanamo Bay.

After 9/11, the Bush administration decided to set aside the Geneva Conventions, which have served us well in past conflicts, and set up an offshore prison in Guantanamo in order to evade the requirements of our Constitution.

General Colin Powell, who was then the Secretary of State, objected. He said disregarding our treaty obligations, ''will undermine the protections of the law of war for our own troops . . . It will undermine public support among critical allies, making military cooperation more difficult to sustain.''

At the hearing that I held in the Constitution Subcommittee, we received testimony from Retired MG Michael Lehnert, who served in the Marine Corps for 37 years. General Lehnert led the first Joint Task Force Guantanamo, which established the detention facility in 2002. General Lehnert testified that he tried to comply with the Geneva Conventions, but he was rebuked by civilian political appointees in the Bush administration. General Lehnert testified:

> ''We squandered the good will of the world after we were attacked by our actions in Guantanamo. . . . Our decision to keep Guantanamo open has actually helped our enemies because it validated every negative perception of the United States. . . . To argue that we cannot transfer detainees to a secure facility in the United States because it would be a threat to public security is ludicrous.

Instead of taking the advice of General Powell and General Lehnert, Defense Secretary Donald Rumsfeld approved the use of abusive interrogation techniques at Guantanamo.

Guantanamo became an international embarrassment, and the Supreme Court repeatedly struck down the Bush administration's detention policies.

Let's be clear, conditions at Guantanamo Bay have improved dramatically since the detainee abuses of the previous administration.

But we cannot continue the indefinite detention of dozens of detainees in an offshore island prison. Gen. Paul Eaton said it well when he testified to my subcommittee:

> Guantanamo cannot be buffed enough to shine again after the sins of the past. . . . Guantanamo's reputation for torture and lack of due process of law cannot be rectified.

Every day, the soldiers and sailors serving at Guantanamo Bay are doing a magnificent job under difficult circumstances.

But these fine young men and women are being asked to carry out an unsustainable policy of indefinite detention because we—their political leaders—have failed to close Guantanamo prison.

The President's authority has been limited by Congress. We have enacted restrictions on detainee transfers that make it nearly impossible to close the facility.

During his two terms in office, Congress never once restricted President Bush's authority to transfer Guantanamo detainees.

Congress did not start micromanaging the Commander in Chief's authority to transfer detainees until 2009, after President Obama took office.

The Obama administration believes that Congress should completely lift the restrictions on the President's authority to close Guantanamo detention facility. I agree.

But I will support the Levin-McCain amendment, which is a constructive step in the right direction. The Levin-McCain amendment would give the President more flexibility to move forward with closing Guantanamo, while still imposing significant restrictions on the administration's authority to transfer detainees.

Under the Levin-McCain amendment, the Secretary of Defense may transfer a Guantanamo detainee to the United States, but only for the purpose of detention, trial, and incarceration. The Secretary of Defense must ''determine that the transfer is in the national security interest of the United States.'' And he must ensure that appropriate steps have been taken to eliminate any risk to public safety while the detainee is in the United States. The McCain-Levin amendment also specifically prohibits any detainee who is transferred to the U.S. for detention or trial from applying for asylum or from being released into the United States.

Before the administration would be permitted to transfer any detainees to the U.S., they would have to produce a detailed report on the plans for each and every detainee who is currently held at Guantanamo Bay.

The Defense Authorization Act also would allow the Secretary of Defense to temporarily transfer a detainee to a military medical facility in the United States, if the detainee needs critical, emergency care in order to prevent death or an imminent significant injury.

The Secretary of Defense would only be authorized to make such transfers if the required medical care cannot be provided at Guantanamo Bay ''without incurring excessive and unreasonable costs.''

Moreover, the Defense Department would have complete responsibility for the custody and control of any detainee during their transfer and temporary hospitalization at a military medical facility.

Detainees receiving temporary emergency medical care would not remain in the United States. The bill specifically requires that they be returned to Guantanamo as soon as they are medically cleared to travel.

Under the Defense authorization bill, the administration could only transfer detainees to foreign countries in limited circumstances. Specifically, first, the Secretary of Defense must determine that it is in the national security interest of the United States to transfer a particular detainee to a given country. Second, the Secretary of Defense must determine that sufficient steps have been taken that will substantially mitigate the risk of recidivism.

But that is not all. The bill requires the Secretary to consider six factors when determining whether a transfer is in the national security interest of the United States, including: No. 1, actions taken by the United States or the host country to reduce the risk of recidivism; No. 2, the host country's control over any facility where the detainee may be held; No. 3, an assessment of the capacity and willingness of the host country to meet its assurances to help mitigate recidivism; and No. 4, the detainee's cooperation with U.S. intelligence and law enforcement forces.

These provisions would ensure that—before any detainee is transferred to a foreign country—the administration would conduct a thorough review of all relevant factors, with a primary focus on preserving our national security.

In contrast to the McCain-Levin amendment, the Ayotte amendment would continue and expand the existing detainee transfer restrictions, which would micromanage the Commander in Chief's national security decisions and make it impossible to close Guantanamo.

It is time to move forward with shutting down Guantanamo prison. We can transfer most of the detainees to foreign countries. And we can bring the others to the United States for detention and trial.

Look at the track record. Since 9/11, nearly 500 terrorists have been tried and convicted in Federal courts and are now being safely held in Federal prisons. And no one has ever escaped from a Federal supermax prison or a military prison.

In contrast, only six individuals have been convicted by military commissions, and two of these convictions have been overturned by the courts. And today, nearly 12 years after the 9/11 attacks, the architects of the 9/11 attacks are still awaiting trial at Guantanamo.

During his confirmation hearing, I discussed this with FBI Director Jim Comey, who was Deputy Attorney General in the Bush administration. Mr. Comey told me:

> We have about a 20–year track record in handling particularly Al Qaeda cases in federal courts. . . the federal courts and federal prosecutors are effective at accomplishing two goals in every one of these situations: getting information and incapacitating the terrorists.

I have heard some of my Republican colleagues argue that we cannot close Guantanamo because of the risk that some detainees may engage in terrorist activities.

The irony is that due to steps taken by President Obama, recidivism rates for the detainees transferred during the Obama administration are far lower than they were during the Bush administration.

Only 4.2 percent of former detainees transferred since January 22, 2009, when President Obama took office, are confirmed recidivists. In contrast, 18.2 percent of the detainees released during the Bush administration are confirmed recidivists.

That is because the Obama administration put in place a strict process for detainee transfers. According to the Director of National Intelligence, of the 174 former detainees who are confirmed or suspected recidivists, only 7 have been transferred during the Obama administration.

No one is suggesting that closing Guantanamo is risk free or that no detainees will ever engage in terrorist activities if they are transferred.

But our national security and military leaders have concluded that the risk of keeping Guantanamo open far outweighs the risk of closing it because the facility continues to harm our alliances and serve as a recruitment tool for terrorists.

And before any detainees are transferred, they are extensively screened, steps are taken to mitigate any risks, and then detainees are monitored after they are transferred. Detainees who pose a risk that cannot be mitigated will not be transferred.

Detainees who pose a risk that cannot be mitigated will not be transferred. And if a former detainee does return to terrorism, he will likely meet the fate of Said al-Shihri, No. 2 official in Al Qaeda in the Arabian Peninsula, who was recently killed in a drone strike.

I stand with Gen. Colin Powell, Gen. Paul Eaton, Gen. Michael Lehnert and countless other national security and military leaders.

It is time to end this sad chapter of our history. Eleven years is far too long. We need to close Guantanamo.

I thank Senator LEVIN and Senator MCCAIN for bringing this issue before us. We can no longer ignore it. We cannot afford to ignore it. As General Eaton says, we cannot afford to keep this recruiting tool open for Al Qaeda. We cannot afford to continue to tell American taxpayers they need to pay $2.7 million a year for every prisoner in Guantanamo. Transfer them to a supermax prison for $70,000. America will be just as safe. It will have money in the bank to use to fight terrorism in more effective ways.

I urge my colleagues to support the Levin-McCain amendment and oppose the Ayotte amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Ms. AYOTTE. Mr. President, I rise in support of amendment No. 2255. Let me just say what we cannot afford. What we cannot afford is to read terrorists Miranda rights and tell them they have the right to remain silent.

Why can't we afford that? Because if we lose the opportunity to gather valuable information to protect our Nation, then we cannot prevent future attacks against the country.

Here is the problem we face. Here, shown in this picture I have in the Chamber, is the current head of Al Qaeda, Ayman al-Zawahiri. If we capture him tomorrow, I ask my colleagues this: Do you want to send him to a secure detention facility where he can be fully interrogated under the laws of war and held there in detention under law of war authority or do you want to send him to a prison in the United States where we cannot know—the legal questions are many—where there is a real risk that he will not be able to be held in law of war detention and will be told you have the right to remain silent, and we will lose opportunities to gather intelligence to protect our country.

My colleague from Illinois talked about the worst criminals whom we put in prison. I am a former murder prosecutor, and I put some of the worst murderers in prison. There is a difference. We are not dealing with criminals; we are dealing with terrorists. The priority has to be to gather information and protect our country. If we catch Zawahiri tomorrow, bring him to a prison near you, give him a lawyer, tell him he has the right to remain silent, those legal questions are not dealt with if we adopt the alternative amendment that allows the administration to transfer people such as Khalid Shaikh Mohammed, the mastermind of 9/11, to the United States.

What do we do with future captures, such as Zawahiri? How do we ensure we can gather information? By the way, that is priceless. If we can stop a terrorist attack by interrogating someone—the price we can save for America, we cannot put a number on that.

If you believe, with a rising reengagement rate of 29 percent—which is higher than last year in terms of people we have had at Guantanamo, we have let go but have gotten back in the fight against us—that we should weaken the standards this administration has to meet to transfer people from Guantanamo to third-party countries, then that is essentially what is done in the Defense authorization.

My amendment will restore existing law to ensure that there are strong national security waivers the administration must meet before they transfer prisoners to countries where they are getting back in the fight against us, where they are getting out and getting back in the fight, including against our troops.

So this is a fundamental question. We cannot afford right now, with what is happening around the world, to close the one secure detention facility we have, and it is clear we can conduct law of war detentions there. We still remain in a fight against terrorists. We cannot treat them like common criminals. That is what is at stake.

If you believe this man shown in this picture should come to a prison near you, that is not what I have heard from my constituents or the American people. That is why my amendment will prohibit the transfer of the mastermind of 9/11 to U.S. soil and keep him in Guantanamo, a top-rate detention facility that keeps terrorists, as opposed to common criminals, secure.

Finally, I would say, as we look at the prohibition on Yemen, my amendment, which is also cosponsored by the ranking member of the Intelligence Committee and many other Members in this Chamber, would prevent transfers to the country of Yemen. Without my amendment, the administration could transfer terrorists to Yemen. What does that mean? Yemen is where Al Qaeda in the Arabian Peninsula is centered. We have actually had terrorists who have been released from Guantanamo and gone back into Al Qaeda leadership and been found in Yemen and there have been prison breaks in Yemen. Yet if my amendment is not adopted to prohibit transfers to Yemen, the administration can transfer detainees from Guantanamo to countries such as Yemen, and the security requirements are weakened.

The world is not a safer place from last year to this year, unfortunately. The reengagement rate of Guantanamo prisoners has increased from last year to this year.

Why are we weakening the national security provisions? Let's keep existing law in place. Why do we want to send Khalid Shaikh Mohammed to the United States of America when we have a secure facility at Guantanamo? Why do we want to take any risk that if we are blessed enough to have our men and women in uniform—who do a fantastic job—capture Zawahiri tomorrow, that he may have to be told ''you have the right to remain silent'' because there are legal ambiguities when he is brought to this country, as opposed to law-of-war detention and interrogation in Guantanamo? This is what is at stake.

We cannot afford to think we are no longer fighting a war against terrorists. We cannot afford to treat people like him as common criminals. As much as I believe in our criminal justice system, it was not created to gather intelligence, which is what we need

to do to make sure America remains safe.

I ask my colleagues to support amendment No. 2255, which is cosponsored also by Senator CHAMBLISS, the ranking Republican on the Intelligence Committee; Senator INHOFE, the ranking Republican on the Armed Services Committee; as well as Senator FISCHER, Senator RUBIO, and Senator BARRASSO.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from Michigan.

Mr. LEVIN. I ask unanimous consent to have printed in the RECORD letters from Secretary Hagel, Secretary Kerry, Attorney General Holder, and the Director of National Intelligence, James R. Clapper.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECRETARY OF DEFENSE
*Washington, DC, Nov 19, 2013.*

Hon. CARL LEVIN,
*Chairman, Committee on Armed Services, Washington, DC.*

DEAR MR. CHAIRMAN: I write regarding the President's goal of closing the Guantanamo Bay Detention Facility and to note the importance of lifting the restrictions on detainee transfers that prevent us from achieving that goal. These restrictions make it difficult to transfer detainees and to close Guantanamo. They are also unnecessary. Before transferring a detainee, this Administration will always ensure the receiving country commits to taking necessary measures to ensure that the detainee's threat is mitigated and the detainee will not be mistreated.

As you know, I recently appointed Mr. Paul Lewis as the Department's Special Envoy for Guantanamo transfers. Special Envoy Lewis will work closely with the State Department's Special Envoy, Mr. Cliff Sloan, to meet with foreign governments and negotiate these assurances. Eliminating or easing the congressionally mandated transfer restrictions would help facilitate our ongoing efforts to transfer detainees once those assurances have been obtained.

The President's proposal to transfer some individuals to the United States for detention or trial, where appropriate, would also help facilitate our efforts to close the facility at Guantanamo, potentially saving U.S. taxpayers millions of dollars each year.

As always, the Department is prepared to provide additional briefings on the closing of the Guantanamo Bay Detention Facility. A similar letter has been sent to the other congressional defense committees.

Thank you.

Sincerely,

CHUCK HAGEL.

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THE SECRETARY OF STATE,
*Washington, DC, November 13, 2013.*

Hon. ROBERT MENENDEZ,
*Chairman, Committee on Foreign Relations, Washington, DC.*

DEAR MR. CHAIRMAN: The continued operation of the Guantanamo Bay detention facility undermines U.S. national security and foreign policy interests. I seek your support for the provisions in the Senate Fiscal Year 2014 National, Defense Authorization Act that would provide flexibility for detainee transfers and strike unmanageable provisions that currently hinder our efforts to close the facility.

The continued operation of the Guantanamo facility damages U.S. diplomatic relations and our standing in the world. It undermines America's indispensable leadership on human rights and other critical foreign policy and national security matters. In particular, the Guantanamo detention facility consistently impedes joint counterterrorism efforts with friends and allies. Provisions in the Senate bill would provide an effective, yet judicious, transfer authority which would provide critical support and flexibility in ongoing negotiations with foreign governments on repatriation and resettlement issues.

With increasing fiscal challenges, we must bear in mind that, aside from its incalculable diplomatic costs, detention operations at Guantanamo cost U.S. taxpayers more than $2.7 million per detainee each year—far more than our super maximum security prisons that safely and securely hold the most dangerous inmates in the world, including convicted terrorists. As both detainees and facilities age, these costs will sharply increase.

I hope I can count on your support for the Guantanamo provisions in the Senate Defense Authorization bill to provide us the flexibility we need to close the Guantanamo Bay detention facility. Until this flexibility is restored, our efforts to close the facility are hampered and our national security and foreign policy interests continue to be impeded.

Sincerely,

JOHN F. KERRY.

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OFFICE OF THE ATTORNEY GENERAL
*Washington, DC, November 14 2013.*

Hon. PATRICK J. LEAHY,
*Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.*

Hon. CHARLES E. GRASSLEY,
*Ranking Member, Committee on the Judiciary, U.S. Senate, Washington, DC.*

DEAR CHAIRMAN LEAHY AND RANKING MEMBER GRASSLEY: As the Senate prepares to consider the National Defense Authorization Act for FY2014, I write to reiterate the longstanding objections of the Department of Justice to any provisions that would continue to restrict the transfer of detainees from Guantanamo, limit the ability of the Executive Branch to determine when and where to prosecute terrorist suspects, and otherwise prevent the President from taking steps to bring about the orderly closure of the facility. Such restrictions encroach on the ability of the Executive Branch to make foreign policy and national security decisions and would, in certain circumstances, violate separation of powers principles.

The unwarranted restrictions on the Executive branch's authority to transfer detainees to a foreign country should be eliminated. Detainees were designated for transfer based on an interagency consensus after a thorough review of all available information. Restricting the ability of the Executive Branch to implement appropriate transfers weakens our national security by wasting resources, damaging our relationships with key allies, and strengthening our enemies.

I also continue to object strongly to the restrictions on transferring Guantanamo detainees to the United States for any purpose. The prosecution of terrorists in Federal court has long been an essential element of our counterterrorism efforts and has been a powerful tool of proven effectiveness. Since 9/11, hundreds of convictions have been obtained on terrorism or terrorism-related charges in our Federal courts, including the convictions of over 165 defendants since 2009. The effectiveness of this system was underscored again on October 24, 2013 when the U.S. Court of Appeals for the Second Circuit affirmed the conviction and life sentence of Ahmed Ghailani, who was transferred from Guantanamo and then convicted in federal district court of conspiracy in connection with his role in the 1998 East Africa embassy bombings. There is no justification for prohibiting the Federal prosecution of Guantanamo detainees in appropriate cases. As you are aware, the viability of conspiracy and material support prosecutions in military commissions is unresolved in light of adverse D.C. Circuit decisions that currently are under review by the full court. Particularly in view of these rulings, Congress should restore the option to prosecute detainees in Federal court in circumstances where the Executive Branch determines that a Federal prosecution is the surest way to protect our national security. Our federal prisons are fully capable of housing Guantanamo detainees safely, securely, and humanely, just as they have done for the hundreds of defendants serving sentences for terrorism-related offenses since September 11, 2001.

If we are to safeguard the American people, we must be in a position to employ every lawful instrument of national power—including both courts and military commissions—to ensure that terrorists are brought to justice and can no longer threaten American lives. Moreover, if we are to protect our national security and advance our foreign policy objectives, the President must have the ability to transfer detainees when doing so serves our national interests. I urge you to reject any legislative proposals that would compromise our ability to carry out that solemn responsibility.

Sincerely yours,

ERIC H. HOLDER, Jr.
*Attorney General.*

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DIRECTOR OF NATIONAL INTELLIGENCE
*Washington, DC.*

Hon. DIANNE FEINSTEIN,
*Chairman, Select Committee on Intelligence U.S. Senate, Washington, DC.*

Hon. SAXBY CHAMBLISS,
*Vice Chairman, Select Committee on Intelligence U.S. Senate, Washington, DC.*

DEAR MADAM CHAIRMAN AND VICE CHAIRMAN CHAMBLISS: As the Senate considers provisions of the FY14 National Defense Authorization bill that would lift Guantanamo detainee transfer restrictions, I would like to provide the Intelligence Community's views of the national security implications in maintaining the Guantanamo Bay detention facility (GTMO).

Al-Qa'ida, its affiliates, and its allies this year continued to reference the detention and purported mistreatment of the detainees at GTMO in furtherance of their global jihadist narratives. The references to GTMO by al-Qa'ida and affiliated organizations include:

Al-Qaida leader Ayman al-Zawahiri in an audio statement in July 2013 citing the detention without trial of GTMO prisoners as one indication of American hypocrisy and indiscriminate persecution of innocent Muslims and calling for all al-Qa'ida prisoners at GTMO to be released.

An article about the Boston marathon bombings in the most recent edition of AQAP's Inspire magazine in June highlighting the ongoing detention of prisoners at GTMO as one of the purported justifications to engage in jihad.

As these examples illustrate, closing the Guantanamo Bay detention facility would deprive al-Qa'ida leaders of the ability to use alleged ongoing mistreatment of detainees to further their global jihadist narrative. In an effort to disrupt the narrative used by terrorists, I support the President's priority of closing the detention facility.

Sincerely,

JAMES R. CLAPPER.

The PRESIDING OFFICER (Ms. WARREN). Under the previous order, the question occurs on Ayotte amendment No. 2255.

Mr. LEVIN. 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 the amendment.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from Missouri (Mr. BLUNT) and the Senator from Georgia (Mr. ISAKSON).

The result was announced—yeas 43, nays 55, as follows:

[Rollcall Vote No. 237 Leg.]

YEAS—43

| | | |
|---|---|---|
| Alexander | Enzi | Murkowski |
| Ayotte | Fischer | Portman |
| Barrasso | Graham | Pryor |
| Boozman | Grassley | Risch |
| Burr | Hagan | Roberts |
| Chambliss | Hatch | Rubio |
| Coats | Heller | Scott |
| Coburn | Hoeven | Sessions |
| Cochran | Inhofe | Shelby |
| Collins | Johanns | Thune |
| Corker | Johnson (WI) | Toomey |
| Cornyn | Kirk | Vitter |
| Crapo | Lee | Wicker |
| Cruz | McConnell | |
| Donnelly | Moran | |

NAYS—55

| | | |
|---|---|---|
| Baldwin | Heinrich | Nelson |
| Baucus | Heitkamp | Paul |
| Begich | Hirono | Reed |
| Bennet | Johnson (SD) | Reid |
| Blumenthal | Kaine | Rockefeller |
| Booker | King | Sanders |
| Boxer | Klobuchar | Schatz |
| Brown | Landrieu | Schumer |
| Cantwell | Leahy | Shaheen |
| Cardin | Levin | Stabenow |
| Carper | Manchin | Tester |
| Casey | Markey | Udall (CO) |
| Coons | McCain | Udall (NM) |
| Durbin | McCaskill | Warner |
| Feinstein | Menendez | Warren |
| Flake | Merkley | Whitehouse |
| Franken | Mikulski | Wyden |
| Gillibrand | Murphy | |
| Harkin | Murray | |

NOT VOTING—2

| | |
|---|---|
| Blunt | Isakson |

The PRESIDING OFFICER. Under the previous order requiring 60 votes for the adoption of this amendment, the amendment is rejected.

AMENDMENT NO. 2175

Under the previous order, there will be 2 minutes equally divided prior to a vote on the Levin-McCain amendment No. 2175.

The Senator from Michigan.

Mr. LEVIN. Madam President, this amendment is a Levin-McCain-Feinstein-Udall amendment. It clarifies that Gitmo detainees would not gain any additional legal rights as a result of their transfer to the United States for detention. Any Gitmo detainee who is transferred to the United States gains no additional legal rights. They also are not permitted to be released inside the United States. They do not lose their status as unprivileged enemy belligerents eligible for detention and trial under the law of war. If they are transferred to the United States, they gain no additional right to challenge their detention beyond the habeas corpus that has been affirmed by the Supreme Court.

I would hope this could be broadly supported.

Senator MCCAIN.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Madam President, I have a letter from 38 retired flag and general officers of the U.S. military, and I quote from their letter:

As retired flag and general officers, we believe it is imperative for Congress to address Guantanamo now. We have always believed that our detention policies should adhere to the rule of law, and that we as a Nation are more secure when we do. Guantanamo is a betrayal of American values. The prison is a symbol of torture and justice delayed. More than a decade after it opened, Guantanamo remains a recruiting poster for terrorists which makes us all less safe.

I would also point out for my colleagues that Guantanamo has cost more than $400 million in the last two fiscal years, and the Department of Defense estimates that is $2.7 million per detainee per year.

I ask unanimous consent to have printed in the RECORD the letter from which I just quoted.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NOVEMBER 13, 2013.

Hon. JOHN MCCAIN,
*U.S. Senate, Russell Senate Office Building, Washington, DC.*

DEAR SENATOR MCCAIN: As retired flag and general officers, we believe it is imperative for Congress to address Guantanamo now. We have always believed that our detention policies should adhere to the rule of law, and that we as a nation are more secure when we do. Guantanamo is a betrayal of American values. The prison is a symbol of torture and justice delayed. More than a decade after it opened, Guantanamo remains a recruiting poster for terrorists which makes us all less safe. As the United States ends the war in Afghanistan in 2014, the government must find a lawful disposition for all detainees captured as part of that war. Spending $2.7 million per detainee annually at Guantanamo, when a comparable facility in the United States costs taxpayers only $34,000–$78,000, is fiscally irresponsible, especially as our military must make significant budget cuts under sequestration.

The Senate National Defense Authorization Act (NDAA) as reported out of the Senate Armed Services Committee would provide a meaningful step towards responsibly closing Guantanamo. It authorizes the transfer of detainees cleared for transfer by the U.S. intelligence and defense agencies for purposes of resettlement or repatriation, and it permits transfers to the U.S. for purposes of prosecution, incarceration and medical treatment. We support these provisions, and oppose any efforts to impose more stringent restrictions on the transfer of detainees out of Guantanamo.

Sincerely,

General Joseph P. Hoar, USMC (Ret.); General Charles C. Krulak, USMC (Ret.); General Ronald H. Griffith, USA (Ret.); General David M. Maddox, USA (Ret.); General William G. T. Tuttle, Jr., USA (Ret.); Vice Admiral Richard Carmona, USPHSCC (Ret.); Lieutenant General John Castellaw, USMC (Ret.); Lieutenant General Robert G. Gard, Jr., USA (Ret.); Lieutenant General Arlen D. Jameson, USAF (Ret.); Lieutenant General Claudia J. Kennedy, USA (Ret.); Lieutenant General Charles Otstott, USA (Ret.); Lieutenant General Norman R. Seip, USAF (Ret.); Lieutenant General Harry E. Soyster, USA (Ret.); Lieutenant General Keith J. Stalder, USMC (Ret.); Major General Paul D. Eaton, USA (Ret.); Major General Mari K. Eder, USA (Ret.); Major General Eugene Fox, USA (Ret.).

Rear Admiral Donald Guter, JAGC, USN (Ret.); Rear Admiral John D. Hutson, JAGC, USN (Ret.); Major General Michael R. Lehnert, USMC (Ret.); Major General William L. Nash, USA (Ret.); Major General Walter L. Stewart, Jr., USA (Ret.); Major General Antonio M. Taguba, USA (Ret.); Brigadier General John Adams, USA (Ret.); Brigadier General David M. Brahms, USMC (Ret.); Brigadier General Stephen A. Cheney, USMC (Ret.); Brigadier General James P. Cullen, USA (Ret.); Brigadier General Evelyn P. Foote, USA (Ret.); Brigadier General Gerald E. Galloway, USA (Ret); Brigadier General Dennis P. Geoghan, USA (Ret.); Rear Admiral Norman R. Hayes, USN (Ret.); Brigadier General Leif H. Hendrickson, USMC (Ret.); Brigadier General David R. Irvine, USA (Ret.); Brigadier General John H. Johns, USA (Ret.); Brigadier General Richard O'Meara, USA (Ret.); Brigadier General Murray G. Sagsveen, USA (Ret.); Brigadier General Anthony Verrengia, USAF (Ret.); Brigadier General Stephen N. Xenakis, USA (Ret.).

The PRESIDING OFFICER. The Senator from New Hampshire.

Ms. AYOTTE. Madam President, I urge my colleagues to vote against amendment No. 2175. If you want to bring the 164 Gitmo detainees to the United States, that is what this amendment will allow the administration to do. The plan they are going to submit requires no congressional oversight, no approval, and though the chairman said they will not get any additional legal rights, he does not answer the question what about constitutional rights if they are brought to our soil. Will they have to be told they have the right to remain silent?

If we catch Zawahiri, the current head of Al Qaeda, tomorrow, will he have to be read Miranda rights? Because that is what is happening when we bring them to U.S. soil now. That is the real question.

That is not required to be answered by their plan the administration wants sent, and we have no oversight over that plan. I urge my colleagues to vote no on this amendment.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Madam President, I ask unanimous consent for 15 seconds.

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

Mr. LEVIN. There are no additional rights for people brought to military detention in the United States than they have in Guantanamo. Nothing changes. There are no more Miranda rights here than in Guantanamo. If

they are in military detention, they are in military detention wherever it is.

The PRESIDING OFFICER. All time has expired.

Under the previous order, the question occurs on the Levin-McCain amendment No. 2175.

Mr. LEVIN. 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 the amendment.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from Missouri (Mr. BLUNT) and the Senator from Georgia (Mr. ISAKSON).

The PRESIDING OFFICER. Are there any other Senators wishing to vote or to change their vote?

The result was announced—yeas 52, nays 46, as follows:

[Rollcall Vote No. 238 Leg.]

YEAS—52

| | | |
|---|---|---|
| Baldwin | Gillibrand | Mikulski |
| Baucus | Hagan | Murphy |
| Begich | Harkin | Murray |
| Bennet | Heinrich | Nelson |
| Blumenthal | Heitkamp | Reed |
| Booker | Hirono | Reid |
| Boxer | Johnson (SD) | Rockefeller |
| Brown | Kaine | Schatz |
| Cantwell | King | Schumer |
| Cardin | Klobuchar | Shaheen |
| Carper | Landrieu | Stabenow |
| Casey | Levin | Tester |
| Collins | Manchin | Udall (CO) |
| Coons | Markey | Udall (NM) |
| Donnelly | McCain | Warner |
| Durbin | McCaskill | Whitehouse |
| Feinstein | Menendez | |
| Franken | Merkley | |

NAYS—46

| | | |
|---|---|---|
| Alexander | Graham | Pryor |
| Ayotte | Grassley | Risch |
| Barrasso | Hatch | Roberts |
| Boozman | Heller | Rubio |
| Burr | Hoeven | Sanders |
| Chambliss | Inhofe | Scott |
| Coats | Johanns | Sessions |
| Coburn | Johnson (WI) | Shelby |
| Cochran | Kirk | Thune |
| Corker | Leahy | Toomey |
| Cornyn | Lee | Vitter |
| Crapo | McConnell | Warren |
| Cruz | Moran | Wicker |
| Enzi | Murkowski | Wyden |
| Fischer | Paul | |
| Flake | Portman | |

NOT VOTING—2

| | |
|---|---|
| Blunt | Isakson |

The PRESIDING OFFICER. Under the previous order requiring 60 votes for the adoption of this amendment, the amendment is rejected.

The majority leader.

Mr. REID. Madam President, I am going to announce a consent agreement, and I will read through it in just a minute. It seems to me this debate we had today was extremely important. As I said last night, one of the issues in this bill is Guantanamo. I felt it was appropriate—even though I agree with the language in the bill—that the Republicans have an opportunity to see if they could change it. That is what this was all about this afternoon.

On the sexual assault issue, there is language in the bill that Senator GILLIBRAND and others want to change. Senator LEVIN and especially Senator MCCASKILL have come up with a side-by-side, just like we had today, and that deserves a full debate. That is an issue which has been in all the papers over the last several months.

The Senate deserves and the American public deserves this debate. I hope we can get this done.

Mr. REID. Madam President, I ask unanimous consent that the pending Levin amendment No. 2123 be set aside for Senator GILLIBRAND or designee to offer amendment No. 2099 relative to sexual assault; that the amendment be subject to a relevant side-by-side amendment from Senators MCCASKILL and AYOTTE, amendment No. 2170; that no second-degree amendments be in order to either of the sexual assault amendments; that each of these amendments be subject to a 60-affirmative-vote threshold; that when the Senate resumes consideration of the bill on Wednesday, November 20, the time until 5 p.m. be equally divided between the proponents and opponents of the Gillibrand amendments; that at 5 p.m. the Senate proceed to a vote in relation to the Gillibrand amendment No. 2099; that upon disposition of the Gillibrand amendment, the Senate proceed to vote in relation to the McCaskill-Ayotte amendment No. 2170; that there be 2 minutes equally divided in between the votes; and that no motions to recommit be in order during the consideration of the sexual assault amendments.

The PRESIDING OFFICER. Is there objection?

Mr. INHOFE. Madam President, reserving the right to object, will the Senator amend his request and add the following language: following the disposition of the McCaskill-Ayotte amendment, all pending amendments be withdrawn and the Republican manager or his designee be recognized to offer the next amendment in order, followed by an amendment offered by the majority side, and that the two sides continue offering amendments in alternating fashion until all amendments are disposed of.

The PRESIDING OFFICER. Will the leader so modify his request?

Mr. REID. Madam President, with the deepest respect to my friend the senior Senator from Oklahoma, we are not in a position to have a bunch of amendments on this bill. It took us weeks to get the drug compounding bill done—weeks, plural. What we should do is get this very contentious amendment out of the way and move on to other amendments. There is no reason why we can't agree on going from one amendment to another amendment. Everyone has to understand that this is not going to be an open amendment process. It is not going to happen. We have tried that. Remember? People said, we haven't done anything on energy for 5 years. That pretty well says it all. But we said, OK, what we are going to do is work on something that is bipartisan in nature led by Senator SHAHEEN. Senator PORTMAN was heavily involved. We never got off first base. We never even got headed toward first base. So we can't do that.

There is going to have to be a change of atmosphere around here where we agree to do legislation. We talk about remembering the good old days when we had unlimited amendments. I remember those too. I also remember the good old days where the majority would have a few amendments, the minority would have a number of amendments, and we would move forward and pass legislation. But no one is willing to do that anymore. We are, but they are not.

So I know how well-intentioned my friend is, but that was then and this is now. I object. I don't accept his modification to my request.

The PRESIDING OFFICER. Is there objection to the original request?

Mr. INHOFE. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. REID. Thank you very much.

MOTION TO RECOMMIT WITH AMENDMENT NO. 2305

Mr. REID. I have a motion to recommit S. 1197 with instructions at the desk.

The PRESIDING OFFICER. The clerk will report the motion.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] moves to recommit the bill to the Committee on Armed Services with instructions to report back forthwith with the following amendment No. 2305.

The amendment is as follows:

At the end, add the following:

This Act shall become effective 3 days after enactment.

Mr. REID. I ask for the yeas and nays on that motion.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 2306

Mr. REID. I have an amendment to the instructions at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 2306 to the instructions on the motion to recommit.

The amendment is as follows:

In the amendment, strike ''3 days'' and insert ''2 days.''

Mr. REID. I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 2307 TO AMENDMENT NO. 2306

Mr. REID. I am so sorry. I have a second-degree amendment at the desk that I totally forgot about.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 2307 to amendment No. 2306.

The amendment is as follows:

In the amendment, strike ''2 days'' and insert ''1 day.''

Mr. REID. Madam President, what I hope we can do tomorrow, as we did today—I know people feel strongly about this sexual assault issue—is people will come and talk about that. It is so important. We were able to do that today on this amendment we had, and by the time 5 o'clock came, there had been a full discussion of the amendment. No one was crying for more time. So I hope in the morning people who feel strongly about this issue will come and talk about it. We did have some people who came and talked about this issue and that was important. So there are very strong feelings about this amendment. It is a difficult issue. It is sexual assault in the military. It wasn't long ago we wouldn't even be discussing such a thing on the Senate floor. We have to now, because it is an issue the military has, and we are trying to work through this. People have different views on how to proceed, but everyone agrees it needs to change. It is a question of how we change it, and that is what this debate is all about.

So I hope Senators will come in the morning and start talking about this issue; tee it up for a vote sometime tomorrow afternoon.

## MORNING BUSINESS

Mr. REID. Madam President, I ask unanimous consent that we now proceed to a period of morning business with Senators permitted to speak for up to 10 minutes each, and we can do that until 7:30 tonight; and during that period of time, it will be for debate only.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Iowa.

## ATTACKING BIOFUELS

Mr. GRASSLEY. Madam President, I wish to address another round of attacks that have been spearheaded by Big Oil against America's biofuels producers.

As its market share for Big Oil dips, Big Oil is doubling down to swat down its perennial pinata. This time around, petroleum producers and food conglomerates are using environmental groups as political cover to gain traction on efforts to pull the plug on the renewable fuel standard that we often refer to as RFS.

This is a ridiculously transparent and very much self-serving assault by these special-interest groups. Their relentless campaign to discredit ethanol undermines America's longstanding efforts to diversify its energy landscape, fuel the economy, and, most importantly, strengthen our national security.

The predictable efforts to smear ethanol's reputation ignore the renewable fuel's valuable contribution to clean energy, rural development, job creation, and U.S. energy independence. The latest round of misguided untruths disregards the plain truth. The plain truth is ethanol is renewable, it is sustainable, it is a clean-burning fuel, and all this helps run the Nation's transportation fleet with less pollution and less imported oil.

Let me remind my colleagues, most of that imported oil comes from countries that hate us and use our money to potentially kill Americans. Yet critics continue to hide behind distortions that claim ethanol is bad for the environment, and those distortions I wish to discuss.

I wish to separate fact from fiction regarding ethanol's impact on the environment. Critics say farmers are putting fragile land into production to cash in on higher corn prices at the expense of soil erosion and clean water.

That argument is not good under any respects. It may have been better last year and the year before when corn was $7, but corn is about $4 a bushel now—hardly making ends meet. They point out that 5 million Conservation Reserve Program acres are no longer enrolled in the conservation program since 2008. They want to pin the blame on ethanol. But the facts are, first of all, fewer acres enrolled in CRP has more to do with Federal belt-tightening, meaning spending less money here in Congress, than land stewardship decisions made by corn farmers.

The 2008 farm bill had a lot to do with it. That farm bill built upon other stewardship incentives for American farmers and ranchers administered by the U.S. Department of Agriculture, including the Environmental Quality Incentives Program, wetland restoration, and wildlife habitat programs. So land put into these programs under the 2008 farm bill takes land out of crop production, but it is not the ethanol industry that has done it. It is Federal policy.

For instance, a Wetlands Reserve Program in 2012 had a record-breaking enrollment of 2.65 million acres. The Wetlands Reserve Program lands cannot be farmed for 30 years, so they aren't going to be raising corn on that land to produce ethanol.

According to the Environmental Protection Agency, no new grassland has been converted to cropland since 2005. Farmers must make marketing, planting, and stewardship decisions that keep their operations financially sound and productive from crop year to crop year.

Even more importantly, these decisions must be environmentally sustainable for the long haul, both from the standpoint of the farmer's economic well-being as well as meeting certain laws that require that.

So let me be clear: Farmers simply can't afford to not take scrupulous care of the land that sustains their livelihoods.

Fertilizer use is on the decline. Compare application per bushel in 1980 versus 2010: Nitrogen is down 43 percent, phosphate is down 58 percent, and potash is down 64 percent.

Ethanol burns cleaner than gasoline. According to the Oregon National Laboratory, corn ethanol reduces greenhouse gas emissions by 34 percent compared to gasoline. If the oil industry wants to talk about the environment, we should not forget—and I will remind them and the people behind this move—about the 1989 Exxon Valdez oil-spill or the 2010 Deepwater Horizon oil-spills in the Mexican gulf. Critics also say that the renewable fuel standard is driving more acres into corn production. Well, the fact is, if facts mean anything, the RFS is driving significant investment in higher yielding, drought-resistant seed technology that very much enhances production per acre. This is a win-win scenario, to cultivate good-paying jobs, mostly in rural America, and to harvest better yields on less land.

The total cropland planted to corn in the United States is decreasing. Let's compare this year's crop year when U.S. farmers planted 97 million acres of corn—97 million corn acres. In the 1930s, farmers planted 103 million acres of corn. Farmers have increased corn harvests through higher yields, not more acres.

Critics contend the Nation's corn crop is diverted for fuel use at the expense of feed for livestock and higher prices at the grocery store. But what are the facts? In reality, one-third of the corn processed to make ethanol reenters the marketplace as high-value animal feed called dried distillers grain. Livestock feed remains the largest end user of corn.

I get so darn tired of hearing people from Big Oil or these environmental groups or these big supermarket conglomerates say that 40 percent of the corn produced goes into ethanol when they don't give credit for the 18 pounds of every 56-pound bushel of corn, 18 pounds, or one-third of it, is used for animal feed. So when coproducts such as the dried distillers grain are factored in, then ethanol consumes only about 27 percent of the whole corn grain by volume. Livestock feed uses 50 percent.

Critics have also pursued the false accusation that the increased production of biofuels increases grocery prices. Again, nothing could be further from the truth. The facts are that the U.S. Department of Agriculture Secretary has said farmers receive about 14 cents of every food dollar spent in the grocery stores, and the farmers share of a $4 box of corn flakes is only 10 cents.

So what is at stake when a coalition of special interests tag-teams to pull