



**Legislative Bulletin.....September 9, 2014**

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**H. Res. 644 – Condemning and disapproving of the Obama administration's failure to comply with the lawful statutory requirement to notify Congress before releasing individuals detained at United States Naval Station, Guantanamo Bay, Cuba, and expressing national security concerns over the release of five Taliban leaders and the repercussions of negotiating with terrorists.**

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**H. Res. 644 – Condemning and disapproving of the Obama administration's failure to comply with the lawful statutory requirement to notify Congress before releasing individuals detained at United States Naval Station, Guantanamo Bay, Cuba, and expressing national security concerns over the release of five Taliban leaders and the repercussions of negotiating with terrorists.**

**(Rep. Rigell, R-VA)**

**Order of Business:** The bill is scheduled to be considered on September 9, 2014, subject to a rule.

**Summary:** [H. Res. 644](#) condemns and expresses disapproval of the Obama Administration's failure to comply with the 30 day statutory requirements to notify Congress in transferring five senior members of the Taliban detained at the United States Naval Station, Guantanamo Bay, Cuba detention center. The resolution expresses grave concern over the national security risks associated with the transfer of five Taliban leaders. The bill also:

- Expresses grave concern over the repercussions of negotiating with terrorists, even when conducted through intermediaries; and the risk that such negotiations with terrorists may further encourage hostilities and the abduction of Americans;
- Stipulates that further violations of the law set forth in section 1035 of the National Defense Authorization Act for Fiscal Year 2014 ([Public Law 113-66](#)) and section 8111 of the Department of Defense Appropriations Act, 2014 ([Public Law 113-76](#)) are unacceptable;
- Expresses that these actions have burdened unnecessarily the trust and confidence in the commitment and ability of the Obama administration to constructively engage and work with Congress; and

- Expresses relief that Sergeant Bowe Bergdahl, who had been held captive by the Haqqani Network and the Taliban since 2009, has returned safely to the United States.

**Additional Information:** Section 1035 of the [National Defense Authorization Act for Fiscal Year 2014](#) mandates that the Secretary of Defense notify Congress not later than 30 days prior to any transfer or release of any individual detained at United States Naval Station, Guantanamo Bay, Cuba. The Secretary of Defense must also determine that the risk posed by the detainee will be substantially mitigated and that the transfer is in the national security interests of the United States. The Secretary is additionally mandated to provide detailed information regarding the circumstances of the transfer or release along with the notification.

Section 8111 of the [Department of Defense Appropriations Act, 2014](#) mandates that no funds appropriated or otherwise made available may be used to transfer any individual detained at United States Naval Station Guantanamo Bay, Cuba to the custody or control of the individual's country of origin, any other foreign country, or any other foreign entity except in accordance with section 1035 of the FY14 NDAA.

On May 31, 2014, the Department of Defense transferred five detainees from the Guantanamo Bay Detention Center to Qatar. The transfer was carried out after an agreement, brokered by the Qatari government, was achieved between the United States and the Afghan Taliban. In exchange for the five detainees, the Taliban released Army Sergeant Bowe Bergdahl who had been held captive by the [Haqqani Network](#) and the [Afghan Taliban](#) since June 2009. Both entities are listed as [terrorist organizations](#) by the Department of State. Under the conditions of the agreement, the Taliban five are prohibited from leaving Qatar for one year after their release. The Department of Defense only informed Congress on the day of the transfer and followed with written notification on June 2, 2014.

The five detainees are: Abdul Haq Wasiq, the former Taliban Deputy Minister of Intelligence; Mullah Norullah Noori, the former Taliban military commander in Mazar-e-Sharif; Mullah Mohammad Fazl, the former Taliban Deputy Minister of Defense; Khairullah Said Wai Khairkwa, the former Taliban Minister of Interior; and Mohammad Nabi Omari, the former Taliban communications chief and border chief. According to the findings of the resolution, all five senior Taliban detainees held leadership positions within the Taliban government in Afghanistan when it provided safe haven for al-Qaeda to conduct planning, training, and operations for the September 11, 2001, attacks. [Mullah Mohammad Fazl](#) is alleged to be responsible for massacring thousands of Afghan Shi'ites in the 1990s. According to a [House Armed Services Committee](#) fact sheet, the Taliban Five will be free to leave Qatar in less than a year and could easily rejoin the fight against the United States.

The Government Accountability Office report concluding that the Obama administration violated the Congressional mandated law on transferring detainees from Guantanamo Bay Detention Center can be found [here](#). The report (H. Rept. 113-569) accompanying H. Res. 644 can be found [here](#). A House Armed Services Fact Sheet on the transfer of the Taliban detainees can be found [here](#). More information on the five Taliban detainees can be found [here](#). A list of the 94 cosponsors can be found [here](#).

**Committee Action:** The resolution was introduced on June 25, 2014, and was referred to the House Armed Services Committee. On July 29, 2014, the Committee held a markup of the bill and ordered it reported (amended) by voice vote.

**Administration Position:** No Statement of Administration Policy is available.

**Cost to Taxpayers:** No CBO estimate is available.

**Does the Bill Expand the Size and Scope of the Federal Government?:** No.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** No.

**Constitutional Authority:** A Constitutional Authority statement is not available.

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