

**HEARING TO MARK UP THE PERSONNEL
PROGRAMS CONTAINED IN THE NATIONAL
DEFENSE AUTHORIZATION ACT FOR FISCAL
YEAR 2015**

WEDNESDAY, MAY 21, 2014

U.S. SENATE,
SUBCOMMITTEE ON PERSONNEL,
COMMITTEE ON ARMED SERVICES,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:04 a.m. in room SD-G50, Dirksen Senate Office Building, Senator Kirsten E. Gillibrand (chairman of the subcommittee) presiding.

Committee members present: Senators Gillibrand, Blumenthal, Kaine, King, and Graham.

Committee staff members present: Peter K. Levine, staff director; and Leah C. Brewer, nominations and hearings clerk.

Majority staff members present: Jonathan D. Clark, counsel; Gabriella E. Fahrner, counsel; and Gerald J. Leeling, general counsel.

Minority staff members present: Steven M. Barney, minority counsel; William S. Castle, minority general counsel; Samantha L. Clark, minority associate counsel; and Allen M. Edwards, professional staff member.

Staff assistant present: Brendan J. Sawyer.

Committee members' assistants present: Cathy Haverstock, assistant to Senator Nelson; Jason D. Rauch, assistant to Senator McCaskill; Moran Banal, Jess C. Fassler, Brooke Jamison, and Kathryn E. Parker, assistants to Senator Gillibrand; Ethan A. Saxon, assistant to Senator Blumenthal; Karen E. Courington, assistant to Senator Kaine; Stephen M. Smith and Margaret Williams, assistants to Senator King; Brandon H. Bell, assistant to Senator Chambliss; Bradley L. Bowman, assistant to Senator Ayotte; Craig R. Abele, assistant to Senator Graham; and Peter H. Blair, assistant to Senator Lee.

**OPENING STATEMENT OF SENATOR KIRSTEN E. GILLIBRAND,
CHAIRMAN**

Senator GILLIBRAND. Good morning, everyone.

The Personnel Subcommittee will come to order.

Again this year, we will hold this subcommittee markup in open session. As a long champion of the importance of transparency in Government, I am pleased we are able to do so, and I am confident that we can conduct our business in public without disclosing clas-

sified information or adversely impacting the process. In this regard, I ask that any Senator wishing to offer an amendment or raise an issue of a classified nature defer that to the full committee's consideration.

Please note also that while this subcommittee meeting is open, the entire contents of the markup book are subject to amendment throughout consideration by the Armed Services Committee and, therefore, embargoed until passage by the full committee and reported to the Senate.

Before we start, I want to thank Senator Graham for his hard work on this subcommittee. I believe we have worked in a bipartisan manner to draft this year's personnel mark, and I appreciate his dedication to our servicemembers and their families.

I also want to thank the staff of the Personnel Subcommittee, Gary Leeling, Jon Clark, Brie Fahrer, Steve Barney, Al Edwards, Samantha Clark, and Brendan Sawyer, for their hard work and dedication.

This markup is consistent with Chairman Levin's guidelines for the markup, first, to ensure that long-term viability of the All-Volunteer Force by sustaining the quality of life of the men and women of the total force, active duty, National Guard and Reserves, and their families, as well as Department of Defense civilian personnel, through fair pay, policies, and benefits, and addressing the needs of the wounded, ill, and injured servicemembers and their families; and second, to ensure the future capability, viability, and fiscal sustainability of an All-Volunteer Force.

We have before us today a markup package that contains 82 legislative provisions, 11 items of special interest, and 5 budget items. The details of these proposals were briefed to the staffs of the committee members last week, so I will limit my comments to some of the highlights.

The total funding authorized for military personnel and health care in the base budget would be \$166.8 billion, in line with the President's request. The Department proposed several measures intended to slow the growth of personnel costs within the DOD budget, which were the subject of a full committee hearing we held 3 weeks ago.

That said, I would like to reiterate my comments from the Personnel Subcommittee posture hearings where I voiced my serious concerns about the proposals put forth by the Department both because it preempts the findings of the Military Compensation and Retirement Modernization Commission and because of the potential harm it might cause to our troops, retirees, and their families, especially our lower enlisted troops. I continue to have these concerns today.

This mark does not include the Department's proposal to reduce the commissary subsidy. It does not include new enrollment fees for TRICARE for Life beneficiaries or to restructure and consolidate the TRICARE Prime, Standard, and Extra programs into a single TRICARE plan. However, it does include a 1 percent pay increase for most, while freezing general and flag officers' pay. It will limit housing allowance increases below the rate of inflation and increase pharmacy co-pays for prescriptions filled outside of military treatment facilities.

So I would like to be very clear. The cuts included are required because of the lower levels required by sequestration. I hope to be able to repeal some or all of these provisions once this bill is on the floor, and we welcome that debate.

In addition to the provisions I just mentioned, the mark includes other provisions relating to pay and other benefits, including authorizing active duty and Reserve end strengths, consistent with the President's request, reducing active duty end strength by over 50,000 servicemembers from this year's authorized levels; reauthorize over 30 types of bonuses and special pays to encourage enlistment, reenlistment, and continued service by active duty and Reserve component personnel; reinstate the cap on retired pay of general and flag officers at the monthly equivalent of level II of the Executive Schedule and ensures the equitable treatment of those officers who serve after the bill passes.

It includes an initiative of Senator Chambliss that clarifies that certain qualifying service that reduces the age at which a reservist can draw their retirement pay below the age of 60 may be accumulated across fiscal years.

Authorizes the payment of the survivor benefit plan annuity to a special needs trust for the sole benefit of a disabled dependent child incapable of self-support because of mental or physical incapacity.

Authorizes \$25 million in supplemental impact aid to local education agencies with military dependent children and \$5 million in impact aid for schools with dependent children with severe disabilities.

In the area of health care, the subcommittee mark includes the following provisions, in addition to the pharmacy provision I mentioned earlier: a provision from Senator Kaine that requires the Secretary to carry out a program of comprehensive, uniform medication management in military treatment facilities; a provision from Senator Donnelly that requires the Secretary to convene an interagency working group to review and improve the provision of mental health services and that requires the Secretary to submit a report on best practices in identifying and treating mental health conditions and traumatic brain injury; a provision from Senator McCaskill that authorizes breastfeeding support, supplies, and counseling during pregnancy and the postpartum period as a covered benefit under TRICARE.

In the area of sexual assault prevention and response, the mark includes the provisions from the Victims Protection Act, a bill sponsored by Senators McCaskill, Ayotte, and Fischer; a provision supported by Senator Mikulski requiring service secretaries to ensure that sexual assault prevention and response provisions from the 2014 defense bill apply to military service academies; a provision supported by Senator Walsh that requires GAO to report on sexual assault prevention activities of the Department of Defense and the military services.

These are only a few highlights of the legislative package we present for markup. As I indicated earlier, your staffs have been fully briefed on the provisions contained in the package.

Senator Graham, would you like to give an opening statement?

STATEMENT OF SENATOR LINDSEY GRAHAM

Senator GRAHAM. Thank you, Madam Chairman.

It has been a pleasure working with you and your staff. We have got really great staff. They work in a bipartisan fashion.

The changes we made to meet sequestration levels were something we did not want to do but I guess Senator Levin is in a box because of sequestration. And I think we chose wisely some of the changes that would have the least amount of impact, but there will be impact. And I just really want the committee to understand this is just a drop in the bucket of what is to come if we do not fix sequestration. This just gets exponentially worse on the personnel side. When 50 percent—almost—of your budget is personnel, it is going to be impossible to have a ready, well-trained, well-equipped force under sequestration without dramatically changing the personnel side of the equation.

So I support the markup. I have really enjoyed working with you. I think we have done a good job, being dealt a tough hand, and I look forward to supporting it.

Senator GILLIBRAND. Would any other Senator like to give an opening statement? Senator Kaine?

Senator KAINE. Thank you, Madam Chairman.

And to the committee members, I also appreciate the good work that the committee members and staff have done on this mark. I am proud to support a number of important measures, but I also am happy that in this mark, we will be deferring some important questions and Madam Chairman addressed one already. The Military Compensation and Retirement Modernization Commission will issue the comprehensive report in February 2015, and one of the things I am glad we are deferring is any decision about commissaries. They are essential to the well-being of servicemembers and their families, and I am glad we are deferring that so that we can look at recommendations about commissaries in a comprehensive way.

I am pleased that the manager's package accepted amendment 23, also connected to the commission, which I introduced together with Senator John Cornyn as the Servicemembers Compensation Empowerment Act to encourage the commission to formally take survey preferences of military members with different grades, different service branches, different times in service into account before making recommendations to us.

The manager's package includes an amendment 166 that I have cosponsored with Senator Inhofe which requires the Secretaries of Defense and Homeland Security to create a program for active duty servicemembers to obtain professional credentials while serving.

And, Madam Chairman, finally I will just put an asterisk by one. I filed an amendment which was not accepted in the manager's package, amendment number 181, because of back-and-forth dialogue that I am still having with the Department of Defense. But it basically would have taken the military tuition assistance program, which allows active duty military to draw down up to \$4,500 a year in tuition assistance and allowed that program to be used for credentialing or licensing exams that often cost \$300. The DOD has some concerns about it. And I think the concerns, as we go back and forth, reflect sort of a broader issue in our society about

whether we value career and technical education as an equivalent to higher education. We should but we do not. But this is one that we are going to continue to work on because I think the day will come when we will see career and technical education as equivalent to other forms of post-secondary education.

Thank you, Madam Chairman.

Senator GILLIBRAND. Senator King?

Senator KING. Madam Chairman, first, thank you very much for your work on this. A lot of work goes into getting to a document that had particularly been cleared by both parties.

I would like to echo the comments of Senator Graham. There was a piece on public radio this morning about the House consideration of the defense bill, and I cannot remember the exact phrase but it was Congress will not let the Defense Department do what Congress told it to do. In a sense, we have created a budgetary situation that is difficult, and the Pentagon is trying to make the decisions that they can within the limits that we have provided, particularly with sequestration looming in 2016.

And I wanted just to reiterate a suggestion I made at a hearing some time ago. It seems to me our committee is peculiarly well situated to lead the effort to deal with this sequestration issue because of all the committees in the Senate, probably we see the impacts of it most directly and dramatically in the defense. As you know, more than half of the cuts come in the Department of Defense. And so we see the practical effects. It is also a bipartisan committee, broadly representative of both parties in the Senate.

And I would just urge the chair and the co-chair, as I have the ranking member and the chair of the full committee, to consider convening our committee simply to talk about this issue and to try to find some ideas because we are in a position of having to approve or not approve some very significant changes that create problems elsewhere. It is all a zero-sum game right now. And if we say, well, you cannot make this change, Secretary Hagel, then he is going to have to make a cut somewhere else, and probably the "somewhere else" is going to be readiness, which is not where we really should be cutting. But it does not have a constituency as some of the other programs do.

So that is a long way of saying I commend you for your work. I think this is important, but I do think there is this looming issue that we are in a uniquely good position to try to take on, not that it will be easy by any means, but if we do not do it, I am just afraid we are going to find ourselves a year from now facing even much more severe kind of cuts. And I think now we have some time to—the 2-year budget agreement gave us some time to try to deal with it before it becomes a crisis.

Thank you.

Senator GILLIBRAND. Thank you.

Traditionally the subcommittee has used the chairman's mark as a markup vehicle. Without objection, we will use the chairman's mark as a markup vehicle, subject to amendment. It has been the practice of the Armed Services Committee that any amendment to add funding has to be accompanied by an offset. The total funding level for military personnel and the defense health program authorized by this subcommittee mark are consistent with the President's

budget request. Accordingly, if any Senator proposes an amendment that would increase spending, it has to identify an offset to pay for it.

We have received 22 amendments to the chairman's mark that have been cleared by both sides. This package has been provided to all members. It is the package in front of you, and I will refer to the amendment number and the basic subject matter.

King amendment 4 regarding military voter assistance.

Inhofe amendment 5 regarding naval sea cadets.

Kaine amendment 23 regarding a pay and benefits survey.

McCaskill amendment 25 regarding vaccine report.

Ayotte amendment 29 regarding prosthetics.

Fischer amendment 30 regarding a report on tour lengths.

Fischer amendment 31 regarding a sexual assault survivor survey.

Hirono amendment 34 regarding the TAP program.

Udall amendment 39 regarding a GAO report on TBI and PTSD discharges.

Hirono amendment 54, as modified, regarding TRICARE Prime service areas.

Blunt amendment 73, as modified, regarding military chaplains.

Gillibrand amendment 75 regarding sexual harassment reports.

Gillibrand amendment 76 regarding additional SAPRO analysis.

Vitter amendment 97 regarding Reserve component enlistment standards.

Shaheen amendment 114 regarding bystander prevention.

Manchin amendment 132 regarding online employment portal report.

Hagan amendment 152 regarding DARPA authority.

Kaine amendment 166 regarding credentialing.

Ayotte amendment 167 regarding a report on the 40-year pay table.

Blumenthal amendment 170 regarding Vietnam era discharges and PTSD.

Blumenthal amendment 171 regarding DOD-VA collaboration.

Ayotte amendment 179 regarding prescription opioids.

Shaheen amendment 190 regarding the Yellow Ribbon program.

Without objection, these amendments to the chairman's mark will be adopted by the subcommittee. Is there any objection? [No response.]

Without objection, the recommendations of the subcommittee will be reported to the full committee, and the staff will be authorized to draft bill and report language implementing agreements reached today and to make the necessary technical and conforming changes.

Before I entertain a motion to adopt the mark, Senator Blumenthal, did you want to say anything?

Senator BLUMENTHAL. Thank you, Madam Chairman. Just to thank you and Senator Graham for your very excellent and substantial work and, as always, to thank the staff for theirs. Thank you very much.

Senator GILLIBRAND. Thank you, Senator Blumenthal.

I will now entertain a motion to adopt the subcommittee mark as amended and to favorably report it to the full committee. Is there a motion?

Senator GRAHAM. So moved.

Senator GILLIBRAND. Is there a second?

Senator KING. Second.

Senator GILLIBRAND. All in favor, say aye. [Chorus of ayes.]

Any opposed, say nay. [No response.]

Before we conclude, I want to recognize Senator Graham once more for your work as the ranking member of this subcommittee. It is a joy and a pleasure to work with you, and I think the ideas and experience you bring to this committee is extremely valuable.

Senator GRAHAM. Ditto.

Senator GILLIBRAND. Thank you.

The subcommittee is adjourned.

[Whereupon, at 10:20 a.m., the subcommittee adjourned.]