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Before the

Subcommittee on Emerging Threats and Capabilities

COMMITTEE ON
ARMED SERVICES

UNITED STATES SENATE

HEARING TO MARK UP THE NATIONAL DEFENSE
AUTHORIZATION ACT FOR FISCAL YEAR 2016

Tuesday, May 12, 2015

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HEARING TO MARK UP
THE NATIONAL DEFENSE AUTHORIZATION ACT
FOR FISCAL YEAR 2016

Tuesday, May 12, 2015

U.S. Senate
Subcommittee on Emerging
Threats and Capabilities
Committee on Armed Services
Washington, D.C.

The subcommittee met, pursuant to notice, at 3:33 p.m.,
in Room SD-106, Dirksen Senate Office Building, Hon. Deb
Fischer, chairman of the subcommittee, presiding.

Members Present: Senators Fischer [presiding], Ayotte,
Cotton, Ernst, Cruz, Nelson, Shaheen, Donnelly, and Kaine.

1 OPENING STATEMENT OF HON. DEB FISCHER, U.S. SENATOR
2 FROM NEBRASKA

3 Senator Fischer: The Subcommittee on Emerging Threats
4 and Capabilities will come to order. I am pleased that the
5 markup of the Emerging Threats and Capabilities Subcommittee
6 is going to be held in open session, and I am confident that
7 we can conduct our business in public without any disclosure
8 of classified information or any adverse impact on the
9 process.

10 In this regard, I ask that any senator wishing to offer
11 an amendment or raise an issue of a classified nature defer
12 to the full committee's consideration. And please note also
13 that while the subcommittee is in open session, the entire
14 contents of the markup book are subject to amendment
15 throughout its consideration by the Armed Services
16 Committee, and are, therefore, embargoed until passage by
17 the full committee and reported to the Senate.

18 Traditionally the subcommittee has used the chairman's
19 mark as a markup vehicle. Without objection, we will use
20 the chairman's mark as the markup vehicle subject to
21 amendment. Is there objection?

22 [No response.]

23 Senator Fischer: Without objection, so ordered.

24 I would first like to thank Senator Nelson for his
25 contributions as ranking member. It has been a pleasure

1 working with you. I would also like to thank my colleagues
2 for their attendance and their interest this year. We have
3 had a number of productive hearings on emerging threats and
4 capabilities, and the hard work of many senators has
5 produced the bipartisan mark we have before us today. As
6 always, the staff of each member and the subcommittee staff
7 deserves acknowledgment and thanks for the effort that they
8 put forth.

9 Before turning to Senator Nelson for his opening
10 comments, I would like to briefly discuss some of this
11 mark's key features. First, this mark supports the need of
12 our warfighters. It authorizes \$8.1 billion for U.S.
13 Special Operations Command and identifies significant
14 savings which are used to meet unfunded requirements of both
15 U.S. Southern Command and Special Operations Command.

16 For example, the mark increases funding by \$15 million
17 to help address technology gaps that have been identified by
18 Special Operations Command in its unmanned vehicle fleet.
19 It also authorizes an increase of \$30 million to support
20 Southern Command's monitoring and interdiction operations in
21 Central America. In the area of cybersecurity, which is a
22 new addition to this subcommittee's jurisdiction, the mark
23 would codify the Department of Defense's role in defending
24 the Nation in cyberspace, and provides additional funding
25 for some of U.S. Cyber Command's highest priorities. The

1 mark also includes an addition of \$200 billion for the
2 services to assess the cyber vulnerabilities of their new
3 and legacy weapon systems. The subcommittee examined this
4 particular issue during its hearing on cybersecurity earlier
5 this year, and will continue to follow it with great
6 interest.

7 The mark also reauthorizes key assistance and training
8 programs at the Department of Defense to help build partner
9 capacity and provides new authority to conduct similar
10 efforts to build partners' intelligence capabilities. It
11 also creates new cooperative initiatives in the South China
12 Sea and the Middle East to support U.S. interests in these
13 key regions. In the science and technology portion of the
14 mark, the committee has identified over \$100 million in
15 savings by eliminating inefficiencies, reducing
16 redundancies, and terminating outdated efforts. These cuts
17 are reinvested in higher priority areas, including the war
18 fighter requirements that I just mentioned.

19 The mark also creates a \$400 million technology offset
20 initiative. The subcommittee's concern about threats to our
21 military's technological superiority goes back to the last
22 Congress, and it continues to grow. Assistant Secretary
23 Kendall has been absolutely clear: our technological edge
24 over potential adversaries is eroding. In November of last
25 year, the Department announced an offset initiative designed

1 to address precisely this problem and promote the next
2 generation of technology that will ensure our military's
3 continued advantage. I am proud that our committee has
4 taken the important step of putting real investment behind
5 the Department's effort. After all, maintaining our
6 technological superiority can deter potential aggressors,
7 and should we have to fight, it increases the chances of
8 victory on the battlefield and the likelihood that our
9 soldiers will return home safely.

10 With that, I turn to my colleague, Senator Nelson, for
11 any opening remarks that he would like to make.

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1 STATEMENT OF HON. BILL NELSON, U.S. SENATOR FROM
2 FLORIDA

3 Senator Nelson: Thank you, Madam Chair. Indeed it has
4 also been a pleasure for me working with you and with the
5 members of the subcommittee. And I think the relative
6 degree of relaxation here would indicate to you that this is
7 not a controversial markup as a result of especially the
8 staff working out all of the kinks. And it is the Armed
9 Services Committee staff that really does an extraordinary
10 job. So I want to underscore that.

11 And let me just highlight a couple of things I think
12 bear -- some of which you have already mentioned, and it
13 bears repeating. Special operations, recommended funding at
14 the requested level of \$10.6 billion for SOCOM Command.
15 That includes an increase of \$17 million to address
16 technology gaps in SOCOM's fleet of MQ-9 reapers and
17 tactical unmanned aerial vehicles.

18 The mark includes multiple cyber-related provisions.
19 One would require the Department to have a panel of
20 independent experts, the Joint Staffs War Gaming Division,
21 to assess the viability of Cyber Command strategy for
22 defending the Nation against cyberattacks. Madam Chair,
23 this senator is worried about that, and so at every turn,
24 and one of the reasons that I wanted to be ranking on this
25 subcommittee was because of the threat of cyberattacks that

1 are hitting us every day. And it is vital that we have a
2 realistic understanding of the prospects for blocking
3 nation-state attacks on critical infrastructure and non-
4 nation state attacks.

5 The mark also includes a provision to designate
6 executive agents from among the services who will build the
7 major foundational capabilities for Cyber Command to operate
8 and hopefully effectively, namely a network infrastructure
9 to securely operate on the global internet. On building
10 partner capacity matters, the mark takes \$1 billion from the
11 President's budget for the Counterterrorism Partnership
12 Fund, but does extend and, in some cases, expands and
13 creates new authorities for the Department to conduct a
14 broad range of capacity building activities. And by the
15 way, we are going to be -- after your mark, we are going
16 over to an all senators briefing that will include the head
17 of Cyber Command.

18 In the area of science and technology, I certainly
19 appreciate your initiative to add \$400 million in funding to
20 support critical areas like high energy lasers, unmanned
21 systems, intelligence data fusion, and other technologies
22 that will help the U.S. keep our technological superiority.
23 And there are also increases in here on university research.
24 And the mark has included provisions that will improve the
25 Department's network of research laboratories, which is one

1 of our great strengths, and trying to leverage them even
2 further by having the ability to partner with industry.

3 So what I would like to do, I short-circuited that
4 comment so we can get on. I would like to insert the total
5 statement into the record.

6 Senator Fischer: Certainly, without objection.

7 [The information referred to follows:]

8 [SUBCOMMITTEE INSERT]

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1 Senator Fischer: Before we begin the amendment
2 process, I want to remind my colleagues that any amendment
3 to add funding must include an offset. And I understand we
4 have a package of 17 cleared amendments that have been
5 reviewed by the majority and the minority staff and jointly
6 recommended for adoption. This package does not include
7 amendments that require the Department of Defense to prepare
8 a report pursuant to the chairman's instructions. Members
9 may offer such amendments following the disposition of the
10 manager's package.

11 The package of amendments is on the table in front of
12 you, and I would ask that the package of cleared amendments
13 be considered at this time. This package includes Nelson
14 Number 16; Blumenthal 31, as modified; Ayotte 42; Heinrich
15 75, as modified; Ernst 101, as modified; Inhofe 104, as
16 modified; Inhofe 130; Donnelly 136, as modified; Donnelly
17 138, as modified; Donnelly 139; Lee 153; Hirono 160, as
18 modified; Fischer 168; Fischer 169; Fischer 180; Inhofe 177,
19 as modified; and Ayotte 179.

20 If there are no questions or debate on these
21 amendments, I would ask unanimous consent that the package
22 of cleared amendments be adopted en bloc. Is there any
23 objection?

24 [No response.]

25 Senator Fischer: Without objection, the package of

1 amendments is adopted and will be added to the subcommittee
2 mark.

3 We also have a list of amendments requiring reports
4 from the Department of Defense. However, members will need
5 to call up their amendments in order for them to be added to
6 the package for adoption. Does any member wish to be
7 recognized to call up such an amendment?

8 Senator Nelson: I would --

9 Senator Fischer: Senator Nelson?

10 Senator Nelson: I would ask that we call up Number 47,
11 Shaheen, and Number 137, Donnelly, and let them speak to
12 their amendments.

13 Senator Fischer: Senator Shaheen?

14 Senator Shaheen: Thank you, Mr. Chairman, or Senator
15 Nelson as Ranking Member and Madam Chair. Shaheen Amendment
16 Number 47 is on the Eastern European Training Initiative,
17 and for those of us who were here when General Breedlove
18 came in, he talked about the need for this. It would
19 authorize the Secretary of Defense, in coordination with the
20 State Department, to carry out the Eastern European Training
21 Initiative for two years with Partnership for Peace
22 countries, using up to \$28 million per year in budget
23 authority.

24 Senator Fischer: Thank you, Senator Shaheen. The
25 amendment will be added to the package.

1 Senator Donnelly?

2 Senator Donnelly: Thank you, Madam Chair. I would
3 like to offer Amendment Number 137. This amendment would
4 add a provision requiring the Department of Defense to
5 conduct a study to assess the presence, scope, and effect on
6 the Department of Defense operations of counterfeit
7 electronic parts that have made it through the DoD supply
8 chain and into fielded systems, potentially contributing to
9 system failures. Amendment 137 is the legislative text. I
10 believe this amendment has been cleared by both the majority
11 and minority staffs, so I ask for its adoption.

12 Senator Fischer: Thank you, Senator Donnelly. The
13 amendment will be added to the package.

14 Are there other report requiring amendments? Senator
15 Ernst?

16 Senator Ernst: Thank you, Madam Chairwoman. I would
17 call up Amendment 171, 176, and, on behalf of Senator
18 Inhofe, Amendment 106. Amendment 171 requires the DoD to
19 submit a report on ISIS, al-Nusra, and other terrorist
20 groups' lines of communications through countries bordering
21 Syria and the threat posed by these lines of communications
22 to the homeland, our men and women in uniform, DoD
23 installations, and diplomatic facilities located in Europe
24 and the Middle East.

25 Amendment 176, co-sponsored by my colleagues, Senators

1 Inhofe and Ayotte, permanently establishes the National
2 Guard State Partnership Program and requires the Department
3 of Defense comptroller to submit a report on establishing a
4 central fund to manage the program under DoD.

5 And on behalf of Senator Inhofe --

6 Senator Fischer: Senator Ernst, was Amendment 176
7 modified?

8 Senator Ernst: Yes, I believe it was.

9 Senator Fischer: So as modified.

10 Senator Ernst. Thank you, Madam Chair. And then on
11 behalf of Senator Inhofe, Amendment 106. And according to
12 Senator Inhofe, this amendment would direct the Secretary of
13 Defense, in coordination with the Secretary of State, to
14 provide a briefing to congressional defense and foreign
15 relations committees on any unmanned aircraft systems
16 request from Jordan and other Middle Eastern countries that
17 are contributing to Operation Inherent Resolve.

18 And it is my understanding that these amendments have
19 been agreed upon by the minority and majority staffs, and I
20 would request adoption of these amendments.

21 Senator Fischer: They will be added to the package.

22 Senator Ernst: Thank you, Madam Chair.

23 Senator Fischer: Anyone else?

24 [No response.]

25 Senator Fischer: I would recognize myself to call up

1 the Fischer Amendment Number 170, which requires a report
2 from the Department of Defense. The amendment has been
3 cleared by the majority and minority side. It would direct
4 the Secretary of Defense to review the management and
5 oversight of security assistance and cooperation programs.

6 Are there other senators wishing to add amendments?

7 [No response.]

8 Senator Fischer: This package includes Shaheen 47, as
9 modified; Inhofe 106; Donnelly 137; Fischer 170; Ernst 171
10 and Ernst 176, as modified. The package has been cleared by
11 the staff on both sides. Without objection, these
12 amendments will be adopted en bloc. Is there objection?

13 [No response.]

14 Senator Fischer: Without objection, the amendments are
15 adopted.

16 Are there other non-report requiring amendments?

17 Senator Kaine: Madam Chair?

18 Senator Fischer: Yes, Senator Kaine?

19 Senator Kaine: I am not going to put an amendment on
20 the table, but I just want to alert the committee to an
21 amendment that I think everybody would be interested in.
22 Since this subcommittee deals so significantly with cyber
23 issues, I have an amendment pending in the Personnel
24 Subcommittee on cyber hiring authority. We tried to do an
25 expanded hiring authority for our cyber force last year, and

1 that had to clear through both Armed Services and Homeland
2 Security, and it did not clear through both last year, so we
3 did not do it. At the end of last year, Homeland Security
4 separately did something on the floor to grant expanded
5 hiring authority for cyber professionals in the Homeland
6 Security sort of jurisdiction, so we are trying to do the
7 same thing and catch back up so that the DoD has the same
8 expanded hiring authorities for cyber professionals. That
9 is a cyber matter, but it is on the personnel side, and that
10 is being raised, I think, by Senator Gillibrand in
11 Personnel. So this may come before the full committee
12 tomorrow, and I just wanted to alert folks to it.

13 Senator Fischer: Thank you, Senator. Any other
14 amendments?

15 [No response.]

16 Senator Fischer: If there are no further amendments to
17 be considered, we will conclude the markup. Without
18 objection, the recommendations of the subcommittee will be
19 reported to the full committee, and the staff will be
20 authorized to draft a bill and report language implementing
21 agreements reached today, and to make necessary technical
22 and conforming changes. Is there objection?

23 [No response.]

24 Senator Fischer: Without objection, so ordered.

25 With that, I would like to thank my colleagues for

1 their work on the subcommittee this year, and the markup is
2 adjourned.

3 [Whereupon, at 3:50 p.m., the hearing was adjourned.]

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