

Stenographic Transcript  
Before the  
Subcommittee on Personnel

COMMITTEE ON  
ARMED SERVICES

**UNITED STATES SENATE**

MARKUP OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2016

Tuesday, May 12, 2015

Washington, D.C.

ALDERSON REPORTING COMPANY  
1155 CONNECTICUT AVENUE, N.W.  
SUITE 200  
WASHINGTON, D.C. 20036  
(202) 289-2260

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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

Tuesday, May 12, 2015

U.S. Senate  
Subcommittee on Personnel  
Committee on Armed Services  
Washington, D.C.

The subcommittee met, pursuant to notice, at 5:32 p.m.,  
in Room SD-106, Dirksen Senate Office Building, Hon. Lindsey  
Graham, chairman of the subcommittee, presiding.

Committee Members Present: Senators Graham  
[presiding], Wicker, Cotton, Tillis, Sullivan, Gillibrand,  
Blumenthal, and King.

1           OPENING STATEMENT OF HON. LINDSEY GRAHAM, U.S. SENATOR  
2 FROM SOUTH CAROLINA

3           Senator Graham: Good afternoon. The Personnel  
4 Subcommittee will come to order. The subcommittee meets  
5 today to mark up an original bill, the National Defense  
6 Authorization Act for Fiscal Year 2016. Again this year we  
7 will hold this subcommittee markup in open session. I am  
8 confident that we can publicly conduct our business without  
9 disclosing classified information or adversely impacting the  
10 process. In this regard, I ask that any senator wishing to  
11 offer an amendment or raise an issue of a classified nature  
12 defer that for the full committee's consideration.

13           All of the subcommittee meeting is in open session.  
14 The entire contents of the markup book are subject to  
15 amendment throughout its consideration by the Armed Services  
16 Committee, and, therefore, embargoed until passage by the  
17 full committee and reported to the Senate.

18           Chairman McCain has expressed concern that over the  
19 past few years there have been a proliferation of Department  
20 of Defense reporting requirements that have made their way  
21 into the NDAA, and that few of these reports assist the  
22 committee in performing its necessary oversight of the  
23 Department of Defense. Unnecessary reports also waste time  
24 and taxpayer money, sometimes costing hundreds of dollars to  
25 prepare.

1           For that reason, our staffs have worked together to  
2 minimize the number of report requirements included in this  
3 bill. Therefore, any member who would like this  
4 subcommittee to adopt an amendment that requires the  
5 Department to prepare a report is advised that the amendment  
6 is not included in the manager's package. The members  
7 should instead be prepared to offer the amendment after we  
8 have disposed of the manager's package. I request that the  
9 member offering such amendment should be prepared to explain  
10 why this report is necessary and how it will be used by the  
11 committee.

12           Before we begin, I want to thank Ranking Member  
13 Gillibrand for her work on this subcommittee. She has been  
14 a joy to work with. We have worked together in a bipartisan  
15 manner to draft this year's Personnel mark, and I appreciate  
16 her dedication to service members and their families.  
17 Finally, I want to thank the Personnel Subcommittee staff --  
18 Steve Barney, Al Edwards, Samantha Clark, Gary Leeling, Jon  
19 Clark, and Brendan Sawyer -- for their hard work and  
20 dedication throughout this process.

21           Before I present some highlights of the mark, I want to  
22 state up front sequestration has caused us to make some  
23 difficult choices, draconian choices. And until we can  
24 replace sequestration with more rational cuts, these choices  
25 are only going to get worse over time, and I hope this year

1 we can have a breakthrough in replacing sequestration with  
2 something that will not do damage to the ability of the  
3 Nation to defend herself.

4 We have before us today a legislative package. It  
5 contains a number of legislative provisions, items of  
6 special interest, and budget items. Since the details of  
7 the legislative package were briefed to the staff of  
8 committee members last week, I will limit my comments to  
9 some of the highlights.

10 We are authorizing a basic pay increase for service  
11 members of, I think, 1.3 percent, modernizing the military  
12 retirement system. We have worked hard to find a good  
13 compromise on this and look forward to working with the  
14 House. Modify TRICARE pharmacy co-pays to help DoD control  
15 its drug costs; authorize TRICARE Prime beneficiaries up to  
16 four urgent care visits per year without preauthorization,  
17 which I think would dramatically improve the quality of this  
18 program.

19 We authorize a pilot program on value-based healthcare  
20 provider reimbursement, improve access to care, quality of  
21 care, the experience of care, and healthcare outcomes  
22 throughout the military healthcare system. It includes  
23 delivery of pediatric care, especially to children with  
24 special needs, and I know Senator Gillibrand has been very  
25 dedicated to that concept. Improve mental healthcare for

1 service members and their families; control cost growth with  
2 basic allowance for housing; authorize Impact Aid for local  
3 school districts that serve military families and for  
4 schools that serve military children with severe  
5 disabilities; improve performance of DoD's civilian  
6 personnel; expand and improve financial literacy training  
7 for service members; enhance collection -- collaboration  
8 between the DoD and VA health systems.

9       These are only a few of the highlights of the  
10 legislative package we present for markup. As I indicated  
11 earlier, your staffs have been fully briefed on the  
12 provisions contained in this package. At this point, I want  
13 offer the ranking member an opportunity to make an opening  
14 statement.

15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

1           STATEMENT OF HON. KIRSTEN GILLIBRAND, U.S. SENATOR  
2 FROM NEW YORK

3           Senator Gillibrand: Well, thank you, Mr. Chairman. It  
4 is an absolute pleasure and joy to work with you. I want to  
5 thank you and your staff for being so collaborative, working  
6 on a bipartisan, cooperative approach that this subcommittee  
7 has followed since I have been on it.

8           This markup is a good starting point for a much broader  
9 debate about how best to serve our men and women in uniform,  
10 and I am very grateful for all the work that went in. In  
11 particular, I am very grateful for some provisions that have  
12 been included in the mark, particularly with regard to the  
13 special victims' counsels. While well intentioned and a  
14 step in the right direction, we have to fix a few holes that  
15 are still in place that have been brought to our attention  
16 in order for the program to truly be effective.

17           So in this mark we are going to modify court martial  
18 rules to protect SVCs from receiving unfavorable evaluations  
19 as a form of retaliation just because they have effectively  
20 served their clients; authorize SVCs to assist sexual  
21 assault survivors in filing IG and EO complaints; help  
22 victims make FOIA requests and help them communicate with  
23 members of Congress; encourage military leaders to refrain  
24 from punishing sexual assault survivors for minor charges,  
25 like underage drinking, when that information comes as a

1 result of reporting an assault; requires service secretaries  
2 to report on the use of forensic, experiential trauma  
3 interview techniques, a technique pioneered by the military  
4 to elicit better evidence from survivors of sexual trauma;  
5 require reports on whether the military's boards for  
6 correction of military records and discharge review boards  
7 are considering PTSD and TBI when they upgrade discharges;  
8 authorize a pilot program on intensive outpatient treatment  
9 of PTSD-related military sexual trauma; and recommend that  
10 the DoD make the Autism Demonstration Project permanent.

11         These are the ones that were included, and I do think  
12 there are things we can keep working on on these topics, and  
13 I just want to summarize where we still can work together:  
14 require DoD to assess whether it is feasible to provide SVCs  
15 to civilian sexual assault survivors since they make up a  
16 significant percentage of those assaulted by members of the  
17 services; provide more appellate rights to military  
18 survivors of sexual assault; ensure that survivors have  
19 access to SVCs during their interviews with the military  
20 criminal investigative organizations; provide SVCs with  
21 discovery rights; clarify that survivors may request that  
22 their SVCs represent them in criminal proceedings; ensure  
23 sexual assault survivors have access to court transcripts;  
24 increase the transparency of the military justice system by  
25 requiring that the results of court martials are provided

1 regularly to the public; ensure that confessions of  
2 assailants are admissible as evidence at court martial,  
3 something that is crucially important for the successful  
4 prosecution of sexual assault cases; require a biannual  
5 survey of military families on issues, including sexual  
6 assault, mental health, and employment; require the  
7 Secretary of Defense to provide an explanation of his  
8 decisions about opening combat positions to women; provide  
9 CyberCom and cyber components of the services with special  
10 hiring authority so they can require the best civilians in  
11 the field; and help clarify the mission of the National  
12 Guard cyber protection teams to ensure they will be training  
13 -- they will receive the training they need to ensure the  
14 services can adequately train cyber warriors.

15 Mr. Chairman, I will also briefly note while the mark  
16 includes numerous provisions that would yield savings for  
17 compensation and benefits, including the Commission's  
18 retirement recommendations, the mark does not include  
19 provisions to reform TRICARE or establish new enrollment  
20 fees for TRICARE for life beneficiaries.

21 And finally, Mr. Chairman, there were some provisions  
22 in this mark that give me pause, but this is the beginning  
23 of a long process, and I look forward to working with you  
24 and the full committee to address all the issues. I want to  
25 thank the staff, of course: Mr. Steve Barney, Dr. Al

1 Edwards, and Ms. Samantha Clark, as well as Mr. Gary  
2 Leeling, and Jon Clark. Thank you.

3 Senator Graham: Thank you very much. To the members  
4 of the subcommittee, we are going to break some new ground  
5 in this markup that I think is long overdue. We are going  
6 to try to improve the quality of life for military members  
7 and their families and our retirees, but at the same reform  
8 our personnel systems to make it more sustainable. It has  
9 been decades since anyone has really looked at our  
10 retirement system. I am pleased with the outcome.

11 Healthcare is really just on the margins this year, but  
12 it is something we are going to have to tackle down the  
13 road. But in many ways this has been a very groundbreaking  
14 markup trying to make sure that those who have been fighting  
15 this war for the last 14 years and their families get the  
16 attention they deserve.

17 Traditionally, the subcommittee has used the chairman's  
18 as a markup vehicle, and without objection we will do so  
19 again, subject to amendment. It has been the practice of  
20 the Armed Services Committee that any amendment to add  
21 funding or increase spending must be accompanied by an  
22 offset.

23 We received 20 amendments to the chairman's mark that  
24 have been cleared by both sides: The Kaine 002, GAO report  
25 on DoD credentialing and licensing programs; Kaine 003

1 regarding the quality assurance for professional  
2 credentials, as modified; Gillibrand, 012, modification of  
3 deadline for Advisory Committee on Sexual Assault;  
4 McCaskill, 013, provider accountability; McCaskill 014, GAO  
5 report on the use of quality of care metrics at military  
6 treatment facilities; Ayotte 019, transitional compensation  
7 benefits for dependents, as modified; Donnelly 026,  
8 intensive behavioral counseling to prevent cardiovascular  
9 disease; Ernst 037, peer support outreach; Blumenthal 078,  
10 opioid therapy for chronic pain management; Blumenthal 079,  
11 social security number use reduction plan; Graham 093,  
12 waiver of recoupment of erroneous payments due to  
13 administrative error in the TRICARE Program; Gillibrand,  
14 099, biannual surveys of military dependents on military  
15 family readiness matters, as modified; Inhofe 109, diagnosis  
16 and treatment for traumatic brain injury; Donnelly 142, mild  
17 traumatic brain injury research; Donnelly 143, support for  
18 military families impacted by grave behavioral health  
19 disorders or substance abuse; Rounds 149, portability of  
20 health plans in the TRICARE Program, as modified; Donnelly  
21 156, training for physician assistants specializing in  
22 psychiatric care; Gillibrand 190, cyber special hiring  
23 authority to increase DoD's authority to hire and train  
24 civilians to assist the Department's increasingly important  
25 cyber mission; Gillibrand 198, military justice

1 transparency; Gillibrand 199, availability of special  
2 victims counsel as individual military counsel.

3 Is there any objection to adopting these amendments?

4 [No response.]

5 Senator Graham: Without objection, the manager's  
6 package is adopted.

7 We now proceed to consideration of amendments  
8 previously included by both sides, which include a reporting  
9 requirement. I will invite members to now offer the cleared  
10 amendments when all amendments have been offered. I propose  
11 to adopt these amendments en bloc. Would any senator like  
12 to offer an amendment?

13 Senator Gillibrand: Mr. Chairman, I call up the  
14 following amendments which have been cleared by both sides  
15 for inclusion in the Personnel mark, but which include  
16 reporting requirements: Amendment 001 on behalf of Senator  
17 Ayotte and myself requiring a report on wait times at child  
18 development centers; Amendment 11 on my behalf -- on behalf  
19 of myself requiring a report on final determinations  
20 relative to the women in service review; Amendment 83 on  
21 behalf of Senator Heinrich relative to Air Force Reserve  
22 component pilot training personnel authorities; and  
23 Amendment 98 on behalf of myself concerning a feasibility  
24 assessment for extending special victims counsel eligibility  
25 for civilian sexual assault survivors.

1 I understand these amendments have been cleared by both  
2 sides, and I ask now for their inclusion in the Personnel  
3 mark.

4 Senator Graham: Any objection?

5 [No response.]

6 Senator Graham: Any other amendments?

7 [No response.]

8 Senator Graham: I have an Amendment Number 1, child  
9 development center report requirement that emphasizes the  
10 importance of providing service member and civilian safe,  
11 quality, and convenient child care at child development, and  
12 presses the Department to reduce excessive wait times by  
13 Senator Ayotte.

14 Are there any other amendments?

15 [No response.]

16 Senator Graham: If there are no further amendments,  
17 then without objection the amendments offered will be  
18 adopted en bloc.

19 Okay, I am sorry. Graham 91 -- I like him very much.

20 [Laughter.]

21 Senator Graham: Air Force Judge Advocate General  
22 Corps.

23 Senator Gillibrand: And then what about that one? Do  
24 you need that one? Is that one done?

25 Senator Graham: 044, transportation worker

1 identification credentials. Anything else?

2 [No response.]

3 Senator Graham: All right. Without objections, these  
4 amendments are adopted en bloc. I move that the  
5 recommendation of the subcommittee, as amended, be reported  
6 to the full committee, and that staff be authorized to draft  
7 necessary bill and report language and to make necessary  
8 technical and conforming changes. Is there a second?

9 Senator Gillibrand: Second.

10 Senator Graham: All in favor, say aye.

11 [A chorus of ayes.]

12 Senator Graham: All opposed, no.

13 [No response.]

14 Senator Graham: The ayes have it. Thank you very  
15 much.

16 Senator Gillibrand: Record time.

17 Senator Graham: Sorry I could not do it in 15 minutes.

18 [Whereupon, at 5:45 p.m., the hearing was adjourned.]

19

20

21

22

23

24

25