

Stenographic Transcript
Before the

Subcommittee on Personnel

COMMITTEE ON
ARMED SERVICES

UNITED STATES SENATE

HEARING TO MARK UP
THE NATIONAL DEFENSE AUTHORIZATION ACT
FOR FISCAL YEAR 2020

Tuesday, May 21, 2019

Washington, D.C.

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HEARING TO MARK UP
THE NATIONAL DEFENSE AUTHORIZATION ACT
FOR FISCAL YEAR 2020

Tuesday, May 21, 2019

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

The subcommittee met, pursuant to notice, at 2:16 p.m.,
in Room SR-228, Russell Senate Office Building, Hon. Thom
Tillis, chairman of the subcommittee, presiding.

Members Present: Senators Tillis [presiding], Rounds,
McSally, Scott, Gillibrand, Warren, and Duckworth.

1 OPENING STATEMENT OF HON. THOM TILLIS, U.S. SENATOR
2 FROM NORTH CAROLINA

3 Senator Tillis: Good afternoon. The Personnel
4 Subcommittee is now in order.

5 Before we begin the markup, I would like to speak
6 directly to all military families who have experienced
7 serious problems with military housing. My staff --

8 Senator Gillibrand: Hold on. I think mine works.
9 Here, let me move it closer to you. There you go.

10 Senator Tillis: My staff and I have visited your
11 homes. The many problems we have seen are appalling. The
12 military services and their public/private housing partners
13 have failed you. As a result, we have worked to include
14 legislation in this year's NDAA to restore accountability
15 and oversight of privatized housing, prioritized safety and
16 comfort for military families, and ensure long-term quality
17 assurance.

18 Let me assure you that this subcommittee will not rest
19 until we know every military family has a safe home to live
20 in. Military families deserve safe, high-quality housing
21 commensurate with the great sacrifices they make every day
22 for national security, for the security of our Nation.

23 This subcommittee meets today to mark up an original
24 bill, the National Defense Authorization Act for Fiscal Year
25 2020. Again, this year we will hold this subcommittee

1 markup in open session. I am confident that we can publicly
2 conduct our business without disclosing classified
3 information or adversely impacting the process. In this
4 regard, I ask that any senator wishing to offer an amendment
5 or raise an issue of a classified nature, defer that for the
6 full committee's consideration. Although this subcommittee
7 is meeting in an open session, the entire contents of the
8 markup book are subject to amendment throughout its
9 consideration by the Armed Services Committee, and are,
10 therefore, embargoed until passage by the full committee
11 reported to the Senate.

12 I want to thank Ranking Member Gillibrand for her hard
13 work on this subcommittee. I also want to thank the
14 individual members. Senator Warren, Senator Scott, Senator
15 McSally have all come and participated, Senator Duckworth
16 and Senator Rounds. And I appreciate your participation not
17 only in the committee hearings, but also in the roundtables.
18 We have worked together in a bipartisan manner to draft this
19 year's Personnel mark, and I appreciate all of your
20 dedication to our service members and their families.

21 Finally, I want to thank the Personnel Subcommittee
22 staff, which we all know does the lion's share of the work.
23 A lot of times they get here before us and they leave here
24 after us. It is not lost on me nor any of the members of
25 the committee, especially Stephanie Barna, Katie Magnus,

1 Garry Leeling, John Clark, Soleil Sykes, Sean O'Keefe, and
2 Al Edwards. And I should also mention our own staff because
3 they work in great cooperation. I want to thank you for
4 your hard work and your dedication throughout the process.

5 We have before us today the legislative package that
6 contains 66 legislative provisions, 36 items of special
7 interest, and 5 budget items. Since the details of the
8 legislative package were briefed to the staffs of the
9 committee members last week, I will limit my comments to
10 just the key highlights.

11 Key aspects of the subcommittee mark are authorizing
12 military and strength levels consistent with the President's
13 budget request; authorizing \$40 million in supplemental
14 impact aid to local educational agencies and military
15 dependent children, and \$10 million in impact aid for
16 schools with military-dependent children with severe
17 disabilities. It allows parental leave to be taken in
18 multiple increments. It expands authority to reimburse
19 civilian employees for taxes related to relocation expenses.
20 It requires the Secretary of Defense to enter into a
21 cooperative agreement with the Council of State Governments
22 to assist with the development of interstate compacts on
23 licensed occupations for military spouses. It also extends
24 through 2024 the authority for reimbursement of State
25 licensure and certification costs to military spouses due to

1 relocation.

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

6 At this point, I want to offer the ranking member the
7 opportunity to make an opening statement. I am going fast
8 for a reason. We got a vote that just started 5 minutes
9 ago.

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

3 Senator Gillibrand: Thank you, Mr. Chairman. Over the
4 past several months we have held a number of important and
5 thoughtful hearings and roundtable sessions together, which
6 I really appreciated. We have exercised oversight into the
7 standard privatized housing that many military families have
8 had to endure. We have addressed the challenges faced by
9 military spouses and their families. And we are continuing
10 to explore the best ideas to improve the Department's
11 prevention of and response to sexual assault within the
12 ranks.

13 I must say that while I appreciate all the coordination
14 with my colleagues and the very hard work of the committee
15 staff to produce some very good incremental improvements to
16 the Military Justice System, the latest data from the
17 Defense Department shows a 50 percent increase in sexual
18 assault against women in the military. That should be a
19 call to action for all of us. Enough is enough. It has
20 been 5 years since General Dempsey said the military would
21 fix the sexual assault crisis, but clearly that has not
22 happened.

23 We have to do better. We need to pass the Military
24 Justice Improvement Act to take sexual assaults and other
25 violent felonies out of the hands of commanders and allow

1 trained military lawyers to make those legal decisions.

2 Mr. Chairman, I believe on balance this markup is a
3 very good starting point for debate and discussion about how
4 best to serve our men and women in uniform and the civilian
5 workforce that supports them. In particular, I am pleased
6 that the mark includes numerous provisions that advance the
7 fight against sexual assault in the military.

8 Specifically, the subcommittee mark, one, recommends
9 that duties of the special victims' counsel and victims'
10 legal counsels expressly include assisting survivors who
11 experience retaliation for reporting sexual assault
12 offenses. Second, it encourages victims of domestic
13 violence and sex-related offenses to secure both military
14 and civilian protective orders. Third, it requires the
15 DAGIPAD to conduct a review of potential racial and ethnic
16 bias in the Military Justice System. Three, it encourages
17 military judges to give deference to sexual assault
18 survivors who desire to testify at courts martial sentencing
19 proceedings.

20 The markup also includes other provisions that I
21 strongly support including: authorizing funding to support
22 a 3.1 percent pay raise for the troops; authorizing \$40
23 million in supplemental impact aid and \$10 million for
24 impact aid for severely disabled military children, matching
25 last year's authorization to address clusters of underserved

1 disabled military children. It addresses the very
2 burdensome effect of the 2017 tax law that harmed Federal
3 employees who were asked to relocate overseas to serve our
4 government. Instead of keeping their moving allowances as
5 tax free, the Trump tax law made this allotment taxable
6 income. I am glad that our bill this year will reimburse
7 civilian employees for this tax burden and counteract this
8 harmful effect.

9 It requires military department boards for the
10 correction of military records and discharge boards to
11 liberally review veterans' claims to update their discharges
12 or dismissals. It requires contraception coverage parity
13 with the Affordable Care Act and the TRICARE Program. It
14 directs the Secretary of Defense to conduct a study of the
15 incidents of infertility among members of the armed forces.
16 And it reduces extra housing payments that the Department is
17 required to make to privatized housing contractors, which
18 would allow the services to use the funding to improve
19 housing and incentivize performance by contractors.

20 I will also say that I was disappointed, but not
21 surprised, that the Administration's budget did not pay for
22 an increase in -- sorry -- did not include a pay raise for
23 the civilian workforce. Private-sector wages increased by
24 over 3 percent this year, and by law, the civilian workforce
25 should receive a 2.6 percent pay raise. The subcommittee

1 mark does not address this shortfall. We cannot hope to
2 recruit and retain the Nation's best civilians if salaries
3 don't keep pace with inflation, let alone private-sector
4 competition for the same talent. We cannot forget that the
5 Department civilian workforce is also vitally important to
6 our national security.

7 I look forward to working with Chairman Tillis here and
8 at the full committee to work toward a bill that will
9 benefit our men and women in uniform and the civilians who
10 support them. And I want to thank Ms. Stephanie Barna, Dr.
11 Al Edwards, Mr. Sean O'Keefe, Ms. Katie Magnus, Ms. Soleil
12 Sykes. And I want to thank the minority staff, Mr. Gary
13 Leeling and Mr. John Clark.

14 Senator Tillis: I should also mention I was thanking
15 everyone for their participation in the roundtables. I also
16 want to thank Senator Kaine who showed up to so many of
17 them, just demonstrating -- he's not on the committee, but
18 demonstrating interesting commission. Any other members
19 wishing to make statements?

20 [No response.]

21 Senator Tillis: Traditionally, the subcommittee has
22 used the chairman's mark as the markup vehicle. Without
23 objection, we will use the chairman's mark as the markup
24 vehicle, subject to amendment. Is there objection?

25 [No response.]

1 Senator Tillis: So ordered.

2 Consistent with the practice and precedent of both the
3 subcommittee and the full committee, the following
4 amendments will not be in order and will not be considered:
5 amendments involving a significant matter that is not
6 within the jurisdiction of the subcommittee; amendments that
7 involve the jurisdiction of another committee that has not
8 agreed to the consideration of the amendment for inclusion
9 in the subcommittee's markup; and amendments that would
10 constitute an earmark.

11 It has been the practice of the Armed Services
12 Committee that any amendment to add funding must be
13 accompanied by an offset. Accordingly, if any senator
14 proposes an amendment that would increase spending, the
15 amendment must also identify an offset to pay for it.
16 Unless the offset can be made from funding under the
17 jurisdiction of the subcommittee, the amendment must be
18 offered at the full committee.

19 We have received 54 amendments that have been cleared
20 by both sides. This package has been provided to all
21 members and it is in front of you. Is there any objection
22 to adopting these amendments?

23 [No response.]

24 Senator Tillis: Without objection, so ordered. The
25 manager's package is adopted.

1 Are there any other amendments?

2 [No response.]

3 Senator Tillis: If not, I will entertain a motion that
4 the subcommittee adopt these agreed amendments as part of
5 the Personnel Subcommittee mark. Is there a second?

6 Senator Gillibrand: Second.

7 Senator Tillis: All in favor, say aye?

8 [A chorus of ayes.]

9 Senator Tillis: All opposed, say no?

10 [No response.]

11 Senator Tillis: The motion is agreed to. I move that
12 the recommendation of the subcommittee be reported to the
13 full committee and that the staff be authorized to draft the
14 bill and report language implementing agreements reached
15 today, and to make necessary technical and conforming
16 changes.

17 Is there a second?

18 Senator Gillibrand: Second.

19 Senator Tillis: All in favor, say aye?

20 [A chorus of ayes.]

21 Senator Tillis: All opposed, say no?

22 [No response.]

23 Senator Tillis: The ayes have it. The motion is
24 agreed to.

25 Is there any other business to come before the

1 subcommittee?

2 [No response.]

3 Senator Tillis: Before we conclude, I want to
4 recognize Senator Gillibrand once again for her work on the
5 committee. And, Senator Gillibrand, I am glad that once
6 again we have done this in an open setting. This is the way
7 it should be done.

8 The committee is adjourned.

9 Senator Gillibrand: Well done.

10 [Whereupon, at 2:27 p.m., the subcommittee was
11 adjourned.]

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