

SENATOR CLAIRE McCASKILL
READINESS SUBCOMMITTEE MARKUP
OF THE FY 2013 NDAA
May 22, 2012

Good morning. The Subcommittee will come to order.

I am pleased that the mark-up of the Readiness Subcommittee will be held in open session for the second straight year – now marking the *second* time in 15 years that any portion of the Armed Services Committee’s mark-up of the National Defense Authorization Act will be debated fully open to the public. We demonstrated last year that we could conduct our business in public without any disclosure of classified information or any adverse impact on the process. I will continue to press for all of our Subcommittee and full Committee mark-ups to be held in open session. The public deserves to be able to witness, understand and scrutinize the positions being advocated and the decisions being made by their elected leaders regarding the over half a trillion dollar defense budget and the associated policies that impact our national defense. We continue to gain votes every year, and I firmly believe that open mark-ups are coming – if not this year, then soon.

Traditionally, the Subcommittee has used the Chairman’s mark – the package of legislative provisions and report language that the two staffs have worked on together and that I have reviewed and approved – as a markup vehicle.

The Chairman's mark has been fully briefed and made available to the staff of all Subcommittee members. Without objection, we will use the Chairman's mark as a markup vehicle, subject to amendment. I want to start by saying what a pleasure it has been to work with Senator Ayotte and her staff again this year. The Armed Services Committee has a longstanding tradition of working on a bipartisan basis for the national defense, and I think that our working relationship has captured that spirit. Senator Ayotte and I share the goal of providing for a national defense, while looking for efficiencies and eliminating waste in the Department of Defense wherever we can. I am pleased that we have been able to reach agreement on a broad range of issues included in this mark-up.

As a result of the search for efficiencies, we have been able to cut O&M funding by roughly \$200 million and military construction funding by more than \$600 million.

I am proud to say that not one dollar of the money that we have saved through these efficiencies will go to fund earmarks. In fact, the only funding that we propose to add in the Readiness Subcommittee is \$59 million for the DOD Inspector General and \$21 million for the DOD corrosion control initiative. I understand that we get a 22:1 return on our investment in the DOD IG and a 14:1

return on our investment in corrosion control, so both of these items should save the taxpayers a substantial amount of money in the long run. I might note that holding the defense authorization mark-up in closed session has been justified, in part, by the desire to limit the influence of lobbyists who might use an open mark-up as an opportunity to press lawmakers to support earmarks of one kind or another. Without earmarks, this toxic motivation is gone. It may be another reason that the open mark-up I hold with the Readiness subcommittee is successful.

The Readiness Subcommittee mark includes two far-reaching efficiencies initiatives that are important to me personally.

First, the mark includes a series of provisions that are designed to implement the recommendations of the Commission on Wartime Contracting in Iraq and Afghanistan. These provisions are drawn from those parts of S. 2139 – the Comprehensive Contingency Contracting Reform Act that Senator Webb and I introduced together earlier this year – that apply to the Department of Defense. For example, these provisions would ensure a clear chain of command for contract support in contingency operations; require risk assessments when contractors perform critical functions in support of such operations; ensure the independence

and transparency of DOD suspension and debarment processes; and provide that contractors who commit serious offenses must be considered for suspension and debarment.

Taken together, these provisions should go a long way to increase accountability for wartime contracting and improve the way the Department of Defense awards, manages, and oversees wartime contracts. As we have learned in Iraq and Afghanistan, however, wartime contracting is not a DOD problem alone. The Department of State, USAID, and other federal agencies also engage in billions of dollars of contracting in large overseas contingency operations. While we were not able to include provisions addressing these agencies in our mark, because they are outside the jurisdiction of the Armed Services Committee, I fully intend to address this shortcoming when the bill comes to the Senate floor.

Second, the mark includes a provision that substantially enhances protections available for contractor employees who blow the whistle on waste, fraud, and abuse on Department of Defense contracts. This provision is drawn from S. 2412 – my Non-Federal Employee Whistleblower Protection Act, which was voted unanimously out of the Homeland Security and Governmental Affairs Committee last month. For example, the provision would extend coverage to

employees of subcontractors; cover disclosures that are made to management officials of the contractor, and of abuses of authority that undermine performance of a contract; and revise the standard of proof to match the standard already applicable in federal employee cases.

These changes should go a long way to ensure that brave individuals who disclose fraud, waste, and abuse on DOD contracts are protected from reprisal. Once again, however, I have to note that the provisions we include here apply only to Department of Defense contracts. It is my intent to revisit this issue when we get to the Senate floor and ensure that we have strong protections for all non-federal employees who disclose waste, fraud, and abuse on federal programs. The taxpayers deserve no less.

The Readiness Subcommittee mark includes a number of other provisions that should improve the management of the Department of Defense and help save taxpayer money. We propose to repeal the depot maintenance provisions that we accepted in last year's conference, enabling us to avoid costly shifts of resources from the public sector to the private sector, and vice versa. We will require DOD to issue defense-wide guidance on the tracking and handling of possible environmental contamination exposures on military installations.

We include a provision that would codify the 2014 goal established by Secretary Panetta for auditability of DOD's statement of budgetary resources, while requiring the Department to ensure that this goal is achieved in an affordable and sustainable manner. And we include a series of acquisition provisions, including provisions that limit the use of cost-plus contracts for the production of major defense acquisition programs; lower the cap on allowable executive compensation for contractors to \$400,000; limit the extent to which DOD contractors can pass-through work to subcontractors by requiring at least half of the work on any contract to be performed by the prime contractor or a subcontractor specifically identified in the contract; grant auditor access to contractor internal audit reports; and change DOD profit policy to ensure contractor profits are clearly tied to their performance. These provisions should go a long way to improve oversight of DOD contracts and ensure that taxpayer money is not wasted.

This year, the Department requested authorization for two additional rounds of Base Realignment and Closure. In March, I stated my clear opposition to the Department's request, and the Department of Defense has done nothing to convince me since that now is an appropriate time for another BRAC round. We

do not authorize additional BRAC rounds this year. We know from the Government Accountability Office that the most recent round of BRAC has cost more and saved significantly less than DoD originally estimated, and we won't recoup our up-front costs from BRAC 2005 until 2018. At minimum, base closures are extraordinarily disruptive to local communities, so before we even consider authorizing another round of BRAC, Congress must have a much better understanding of how future BRACs would affect our budget, our national security interests and the communities that patriotically support bases around this country.

In addition, our nation's military footprint around the globe is changing in significant ways. We do not yet have a clear vision of our force posture as we draw down our forces from the Middle East. Before closing bases in the United States, we must ensure that our overseas force posture is appropriate.

Finally, we recommend over \$600.0 million in reductions to the military construction accounts. While some of these reductions are due to incrementing large projects to more efficiently use taxpayer funds, there are significant project cancellations.

As I have said many times in the past, I do not believe that there is anything

the Department is doing that we cannot do better, and I do not believe that there is any part of the budget that can be off limits as we look for savings. With this mark, I believe that the Readiness Subcommittee has met this standard.

Let me close by saying how much I recognize – and I know all members of this subcommittee recognize – how important our work is to the servicemen, women, civilians and families who make up our armed forces. The sacrifice, heroism and selflessness of those who serve, especially in this sustained period of conflict, humble each of us. Our responsibility to our armed forces is one we take very seriously. The scope of the issues within our subcommittee’s jurisdiction is extraordinary. And the need to get our work right is patently clear – we seek to ensure the readiness of our armed forces to carry out ongoing missions, to be prepared to carry out any new national security requirements that arise, and to continue to serve as a detriment to any entity in the world who might wish to harm the United States. In today’s uncertain world we must ensure we can accomplish all of this while also addressing what former Chairman of the Joint Chiefs of Staff Admiral Mike Mullen termed our largest national security threat: our national debt. That is what this mark seeks to do.