



Media, Transparency Advocates Press SASC to Open NDAA Markups

By John M. Donnelly, CQ Roll Call

10:53 a.m. May 6, 2015

Journalists and transparency groups are calling for the Senate Armed Services Committee to open its doors to the public when it writes the annual defense authorization bill next week.

If the committee must close its doors even for unclassified debate, it should at least be willing to vote openly to do so, some critics say.

The Standing Committee of Correspondents, which represents reporters before Congress, sent a letter Wednesday to the Senate Armed Services chairman, Arizona Republican John McCain, urging him to reverse the panel's longstanding practice of meeting privately for its full committee markup of the policy bill.

The measure empowers the federal government to spend nearly half its discretionary funds on national security programs and sets forth numerous policies.

"The process of making the decisions should itself be visible to the American people in real time – as it is in most other corners of Congress," wrote Kathleen Hunter of Bloomberg News, the Standing Committee chairwoman, on behalf of the committee.

Meanwhile, a coalition of 60 groups is stepping up a long-running campaign to open the markup and is trying to pressure key Armed Services senators to support the cause.

The sweeping defense policy bill "authorizes over half a trillion dollars in spending and is one of the only bills to pass the Congress," said Danielle Brian, executive director of the Project on Government Oversight, which leads the coalition. "As a result, it has become the home for a vast array of significant policy decisions as well as pet projects —all of which should be debated and voted on in public."

The groups and their supporters are penning op-ed columns and letters to the editor this week, and they are ginning up support for their position on social media, using hashtags such as #opendefensebudget.

The committee actually conducts a lot of the debate on the authorization bill in open sessions. The six subcommittee chairmen and chairwomen are allowed to decide whether to open or close their portions

of the markup. This year, half will be open and half closed. Those proceedings are scheduled to occur May 11-12.

But the full committee's deliberations, set to start May 13, are on track to continue to occur in so-called executive session.

Senate Armed Services voted April 23 to close this year's full committee proceedings. That vote occurred in executive session. While the final tally was made public, the breakdown of the yays and nays will only be available when the final report accompanying the bill is published.

The transparency groups point out that Senate rules require all committee meetings outside of the Intelligence panel to occur in public. Such meetings can be closed for a handful of allowable reasons, but the vote to do so must be held in public, the rule says.

The groups are pushing for such a public vote on May 13.

"The vote to close the session has to take place in public," says Morton Rosenberg, an expert on congressional rules and procedures who is a fellow at the Constitution Project, a think tank.

But the Senate Armed Services Committee regularly holds classified briefings and hearings without voting in public first to do so. And it has voted before in private to close its annual defense authorization bill.

"The committee acted consistent with prior practice and procedure by holding a vote without objection to close the markup and publishing the results in the Congressional Record," an aide said.

McCain has not ruled out holding a new, open vote on May 13 to decide whether or not to close the full committee proceedings.

The transparency groups face an uphill battle just trying to make the vote occur in public, let alone winning it.

Their biggest champion on the committee is Missouri Democrat Claire McCaskill, who started pushing to open up the defense authorization markup practically from the minute she arrived in the Senate in 2007. More than eight years later, despite the fact that more subcommittees mark up their portions of the bill in public, the full committee deliberations remain a private affair, even if the results are later made public.

"Whether there's another procedural vote or not, we already know what the level of support is on the committee," said Sarah Feldman, McCaskill's spokeswoman. "Claire will keep working, as she consistently has, to open up this process to the public."

Since 2013, the Standing Committee of Correspondents has repeatedly urged Senate Armed Services to open all its markups.

In Wednesday's letter to McCain, the reporter's committee expressed disappointment in the April 23 vote.

And the reporters questioned the senators' longstanding rationale for keeping the full committee meeting private: that moving in and out of open session to discuss classified data would be cumbersome.

"The House Armed Services Committee openly marks up the companion to the Senate bill," Hunter wrote. "In that chamber, the process is smooth on the rare occasions when it does close a markup to discuss classified data."