



FY12 National Defense Authorization Act

Analysis of H.R. 1540 & S. 1867, the National Defense Authorization Act for Fiscal Year 2012.

As of 15 Nov 2011



Bills Status

	Passed in Committee	Passed in Chamber	Agreement	Final Passage	Signed into Law
House (H.R. 1540)	<input checked="" type="checkbox"/> 11 May 2011	<input checked="" type="checkbox"/> 26 May 2011			
Senate (S. 1867)	<input checked="" type="checkbox"/> 15 Nov 2011				

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Executive Summary

This guide provides only a short summary and analysis of the many National Guard-related provisions. To obtain a complete understanding of any particular provision, users are encouraged to review the actual legislative language contained in the applicable section of the bills, accompanying reports, or public law. The bill is available on the NGB-LL web page at [HTTP://WWW.NG.MIL/LL/](http://www.ng.mil/ll/)

On 26 May, the House approved H.R. 1540 the National Defense Authorization Act (NDAA) for Fiscal Year 2012, previously passed by the House Armed Services Committee on 11 May.

The House bill includes several important provisions related to the National Guard.

- **Vice Chief, National Guard Bureau:** The House bill would re-establish the position of the Vice Chief, National Guard Bureau at the three-star level. The bill would also require that both the Chief and Vice Chief, National Guard Bureau be designated by the Secretary of Defense as general officers to be counted against the pool of general and flag officers in joint duty assignments established by section 526(b) of title 10, United States Code.
- **Chief of the National Guard Bureau:** The House bill would place the Chief of the National Guard Bureau on the Joint Chiefs of Staff. The bill would require the Chief of the National Guard Bureau to serve as an advocate and liaison for the states and require consultation with the Governors and Adjutants General before any forces structure or equipment levels are changed that could affect domestic operations.
- **C-23 Aircraft Retirement:** The House bill would limit the retirement of C-23 aircraft until one year after the Chief, National Guard Bureau with the Chiefs of Staff of the Army and Air Force, the Commanders of U.S. Northern Command and U.S. Pacific Command, and the FEMA Administrator submit a comprehensive review of intra-theater airlift requirements for both Title 10 and Title 32 operations.
- **Embedded Behavior Health Care Providers:** The House bill would require the Secretary of Defense to provide access to mental health assessments to members of the Reserve Components during scheduled unit training and assemblies. In addition, the Secretary would be required to provide psychological health programs and training on suicide prevention and post-suicide response.
- **State Partnership Program:** The House bill authorizes up to \$3,000,000 of the funds made available to the National Guard State Partnership Program to pay travel and per diem costs associated with the participation of US and foreign civilian and non-defense agency personnel in authorized State Partnership Program events conducted both in the US and in foreign partner countries.
- **NGREA:** The House bill authorizes \$325,000,000* for the National Guard and Reserve Equipment Account.

A revised version of the Senate bill, S. 1867, was approved by the Senate Armed Services Committee on 15 Nov. The revised version is aligned with the FY 12 Defense Appropriations bill, passed by the Senate Appropriations Committee in September, and the debt limit agreement reached earlier this summer. The bill includes a number of National Guard related provisions.

- **Authority to Order Selected Reserve to Active Duty:** The Senate bill would modify section 12304 of Title 10 to allow the Service Secretaries to order members of the Reserve Component to active duty other than during times of war or national emergency. The provision is limited to no more than 60,000 members at any one time for 365 consecutive days. This provision differs from the President's submission by increasing the number of members from 10,000 to 60,000. Another significant difference is that the Senate bill grants the authority to the Service Secretaries as opposed to the Secretary of Defense. The Senate Committee report acknowledges that this provision enhances the role of the operational reserve.
- **Modification of Yellow Ribbon Program:** The Senate bill would make enhancements to the Yellow Ribbon Program to improve process and determine best practices.
- **Report on the State Partnership Program:** The Senate bill would require the Comptroller General of the United States to conduct a review of the effectiveness of the State Partnership Program.

It is important to note that the actual effect of some provisions of the NDAA will be greatly affected by the outcomes of the Fiscal Year 2012 Defense Appropriations bill and the Fiscal Year 2012 Military Construction Appropriations bill.

Army National Guard

Authorization of Funding

(All Dollars in Thousands)

Army National Guard	President's FY12 Budget Request	House Approved	Delta from PB	SASC Approved	Delta from PB	Conference Report	FY12 Delta from PB
O&M*	\$7,041,432	\$7,122,152	+\$80,720	\$6,840,432	-\$201,000		
OCO O&M*	\$387,544	\$387,544	\$0	\$387,544	\$0		
MILCON*	\$773,592	\$823,592	+\$50,000	\$773,592	\$0		

Army National Guard End Strength

Army National Guard	President's FY12 Budget Request	House Approved	Delta from PB	SASC Approved	Delta from PB	Conference Report	FY12 Delta from PB
End Strength	358,200	358,200	0	358,200	0		
AGR	32,060	32,060	0	32,060	0		
Dual Status Technicians	27,210	27,210	0	27,210	0		
Non-Dual Status Technicians	1,600	1,600	0	1,600	0		
ADOS	17,000	17,000	0	17,000	0		

Air National Guard

Authorization of Funding

(All Dollars in Thousands)

Air National Guard	President's FY12 Budget Request	House Approved	Delta from PB	SASC Approved	Delta from PB	Conference Report	FY12 Delta from PB
O&M*	\$6,136,280	\$6,233,380	+\$97,100	\$6,102,780	-\$33,500		
OCO O&M*	\$34,050	\$34,050	\$0	\$34,050	\$0		
MILCON*	\$116,246	\$133,525	+\$17,279	\$116,246	\$0		

Air National Guard End Strength

Air National Guard	President's FY12 Budget Request	House Approved	Delta from PB	SASC Approved	Delta from PB	Conference Report	FY12 Delta from PB
End Strength	106,700	106,700	0	106,700	0		
AGR	14,833	14,833	0	14,833	0		
Dual Status Technicians	22,509	22,509	0	22,509	0		
Non-Dual Status Technicians	350	350	0	350	0		
ADOS	16,000	16,000	0	16,000	0		

Appropriations

C-23 Aircraft Retirement: The House bill would limit the retirement of C-23 aircraft until one year after the Chief, National Guard Bureau with the Chiefs of Staff of the Army and Air Force, the Commanders of U.S. Northern Command and U.S. Pacific Command, and the FEMA Administrator submit a comprehensive review of intra-theater airlift requirements for both Title 10 and Title 32 operations. (House Sec. 111) The House Committee report encourages the Department to procure the most cost-effective and mission-effective airlift aircraft to meet requirements.

JSTARS Re-Engining: The Senate bill would require the Air Force to conduct an audit on the funds appropriated to re-engine E-8 JSTARS aircraft. (Senate Sec. 157) The Senate Committee report states that they believe the E-8 JSTARS aircraft will have an important place in the future force structure.

Operations and Maintenance

Sikes Act Amendments: The House bill would amend the Sikes Act to include State-owned National Guard Installations. (House Sec. 313)

Limitation on Revising the Definition of Depot-Level Maintenance: The Senate bill would prohibit changing the definition of Depot Level Maintenance until a report is submitted by the Secretary of Defense. (Senate Sec. 322)

Modification of SEAD/DEAD Report Requirements: The House bill clarifies a reporting requirement from the Fiscal Year 2011 National Defense Authorization Act (P.L. 111-383), to emphasize the role of the Air National Guard. (House Sec. 355)

Military Personnel Policy

Vice Chief, National Guard Bureau: The House bill would re-establish the position of the Vice Chief, National Guard Bureau at the three-star level. The bill would also require that both the Chief and Vice Chief, National Guard Bureau be designated by the Secretary of Defense as general officers to be counted against the pool of general and flag officers in joint duty assignments established by section 526(b) of Title 10. (House Sec. 511)

Authority to Order Selected Reserve to Active Duty: The Senate bill would modify section 12304 of Title 10 to allow the Service Secretaries to order members of the Reserve Component to active duty other than during times of war or national emergency. The provision is limited to no more than 60,000 members at any one time for 365 consecutive days. (Senate Sec. 511) This provision differs from the President's submission by increasing the number of members from 10,000 to 60,000. Another significant difference is that the Senate bill grants the authority to the Service Secretaries as opposed to the Secretary of Defense. The Senate Committee report acknowledges that this provision enhances the role of the operational reserve.

Modification of Time in Which Preseparation Counseling Must be Provided for Reserve Component Members Being Demobilized: Both the House and Senate bills include a provision that would remove the requirement that demobilizing Reserve Component members be provided pre-separation counseling 90 days prior to separation/demobilization. The provision would allow the Secretaries Concerned to provide pre-separation counseling as soon as possible when the 90 day requirement is impracticable. (House Sec. 512; Senate Sec. 513)

Clarification of Applicability of Authority for Deferral of Mandatory Separation of Military Technicians (Dual Status) Until Age 60: The House bill would clarify Department of Defense submission and processing policy requirements for military technicians (dual status) that request military retention beyond a mandatory removal date or a maximum years of service requirement. (House Sec. 513)

Eligibility for Promotion for Reserve Officers Employed As Dual Status Technicians: The House and Senate bills would remove from promotion eligibility those Reserve officers of the Army

and Air Force employed as dual status military technicians who had been retained on the Reserve Active status list beyond the mandatory removal date normally required after reaching their maximum number of years of service. (House Sec. 514; Senate Sec. 512) This provision differs from the President's submission because the submission only applies to Army technicians.

Report on Terminating Military Technicians: The Senate bill would require the Secretary of Defense to submit a report on terminating military technicians as a personal management category. (Senate Sec. 514)

Chief of the National Guard Bureau: The House bill would place the Chief of the National Guard Bureau on the Joint Chiefs of Staff. The bill would require the Chief of the National Guard Bureau to serve as an advocate and liaison for the states and require consultation with the Governors and Adjutants General before any forces structure or equipment levels are changed that could affect domestic operations. (House Sec. 515)

Dwell Time Measurement and Data Collection: The House bill would require the Secretary of Defense to develop a policy for dwell time as well as a system to track operational tempo for units and individuals. (House Sec. 522)

Reserve Component Mental Health Student Stipend: Both the House and Senate bills would expand an existing stipend program to include post-baccalaureate degrees and training leading to certification as a licensed mental health provider in Clinical Psychology or Social Work. (House Sec. 542; Senate Sec. 543)

Revision To Membership of Department of Defense Military Family Readiness Council: Both the House and Senate bills would allow the Secretary of Defense more flexibility in soliciting members to represent each of the Services, as well as ensure achieving balanced viewpoints. Additionally, this proposal would authorize terms for membership on the MFRC to be reduced to two years, rather than three, which would allow greater rotation among the members for broader viewpoints, as well as increases the willingness of potential members to commit to the responsibility of serving on the MFRC. (House Sec. 571; Senate Sec. 576)

Modification of Yellow Ribbon Program: The Senate bill would make enhancements to the Yellow Ribbon Program to improve process and determine best practices. (Senate Sec. 582)

Sense of Congress Regarding Yellow Ribbon Day: The House bill shows Congressional support for making April 9, National Yellow Ribbon Day. (House Sec. 597)

Compensation and Other Personnel Benefits

Pay Increase: The House bill would increase military pay by 1.6%. (House Sec. 601).

One-year Extension of Certain Expiring Bonus and Special Pay Authorities: The House and Senate bills would provide authority to pay bonuses and special payments for one year: The Selected Reserve affiliation bonus and the prior service enlistment bonus, special pay for enlisted members assigned to high priority units, Selected Reserve reenlistment bonus, Ready Reserve enlistment and reenlistment bonus, recruitment and retention incentive programs for Reserve component health care professionals, and health professions loan repayment program. (House Sec. 611; Senate Sec. 611)

One Year Extension of Inactive Duty Training Pay: The House bill would extend for one year reimbursement travel expenses for inactive duty training outside of the normal commuting distance. (House Sec. 621) The Senate bill includes a number of transportation changes including extending authority for inactive duty training outside of the normal commuting distance. (Senate Sec. 621)

Multi-National Force Egypt Included in CENTCOM Rest and Recuperation Absence Program: The House bill would allow members serving in Multi-National Force Egypt to participate in Rest and Recuperation programs for which they are not currently eligible. (House Sec. 623)

Repeal of Sense of Congress Related to Non-Regular Retired Pay: The Senate bill would repeal section 633 of the Fiscal Year 2011 NDAA (P.L. 111-383) that provides the sense of Congress related to non-regular retired pay for the Reserve Component. (Senate Sec. 633).

Report on Incentives for Health Care Professionals in the Reserve Components: The House requires the Surgeon Generals of the Army, Air Force, and Navy to submit a report on the staffing needs for health care professionals. (House Sec. 663)

Health Care

Embedded Behavior Health Care Providers: The House bill would require the Secretary of Defense to provide access to mental health assessments to members of the Reserve Components during scheduled unit training and assemblies. In addition, the Secretary would be required to provide psychological health programs and training on suicide prevention and post-suicide response. (House Sec. 703)

Transitional Health Benefits for the Reserve Component: The Senate bill would clarify that when members of the Reserve Components on active duty are extended on active duty, the 180-day period of Transition Assistance Management Program begins when the member is separated from active duty. (Senate Sec. 712)

General Provisions

Extension of Authority of Certain Counter Drug Activities of the Department of Defense: The House bill extends for one-year the authority of the Department of Defense to provide support for the counter drug activities of other governmental agencies. The Senate bill extends that same authority for five years. (House Sec. 1012; Senate Sec. 1011)

Change of Deadline for National Guard and Reserve Equipment Report: The House bill would push back the deadline for the annual National Guard and Reserve Equipment Report from February 15 to March 15. (House Sec. 1075)

Report on the National Guard and Reserve Components of the Armed Forces: The House bill requires a report on the access to trained and equipped National Guard and Reserve Components. (House Sec. 1080A)

State Partnership Program: The House bill authorizes up to \$3,000,000 of the funds made available to the National Guard State Partnership Program to pay travel and per diem costs associated with the participation of US and foreign civilian and non-defense agency personnel in authorized State Partnership Program events conducted both in the US and in foreign partner countries. (House Sec. 1083)

Official Recognition of Salem, MA as the Birthplace of the National Guard: The House bill includes a provision that recognizes the muster of a militia regiment on 1637 in Salem, MA as the birthplace of the National Guard of the United States. (House Sec. 1099K)

Matters Related to Foreign Nations

Report on the State Partnership Program: The Senate bill would require the Comptroller General of the United States to conduct a review of the effectiveness of the State Partnership Program. (Senate Sec. 1242) The Senate Committee report notes that the Committee supports the objectives of the program, but is concerned about the expansion of the program.

Other Authorizations

Drug Interdiction and Counter Drug: The House bills authorize \$1,156,282,000* for drug interdiction and counter drug activities of the Department of Defense. (House Sec. 1404) The Senate bill authorizes \$989,282* for drug interdiction and counter drug activities of the Department of Defense. (Senate Sec. 1405)

Additional Budget Items

Modification of Aircraft: The House bill includes a provision that states that of the funds authorized for Army Procurement of Aircraft, \$10,000,000* is authorized for communication equipment for Army National Guard helicopters. (House Sec. 1606)

National Guard and Reserve Equipment Account: The House bill authorizes an additional \$100,000,000* for the National Guard and Reserve Equipment Account above the \$225,000,000* already provided. (House Sec. 1614) The Committee report notes that the bill authorizes a total of \$5,305,000,000* for procurement of National Guard and Reserve equipment.

Army National Guard Simulation Trainers: The House bill states that of the authorized Operations and Maintenance funds for the Army, \$2,000,000* is for Army National Guard simulation trainers. (House Sec. 1699k)

Military Construction Authorizations

Army National Guard Construction and Acquisition Projects: The House and Senate bills authorize military construction and land acquisition projects across 29 states for the Army National Guard. The House bill authorizes an additional \$50,000,000* for unspecified projects. (House & Senate Sec. 2601)

Air National Guard Construction and Acquisition Projects: The House and Senate bills authorize seven military construction and land acquisition projects across six states for the Air National Guard. The House bill authorizes an additional \$30,000,000* for unspecified projects. (House & Senate Sec. 2604) The House Committee report explains that the Committee did not authorize funding for a requested project for an F-22 parking apron in Hawaii because it did not believe the money would be executed on time based on the timelines of previously authorized construction projects.

Budget Item Relating to Army National Guard Construction and Acquisition Projects: The House bill specifies that of the \$50,000,000* for unspecified projects, \$10,000,000* is authorized for operational facilities, \$30,000,000* for maintenance and production facilities, and \$10,000,000* for training facilities. (House Sec. 2611)

Budget Item Relating to Air National Guard Construction and Acquisition Projects: The House bill specifies that of the \$30,000,000* for unspecified projects, \$10,000,000* is authorized for operational facilities, and \$20,000,000* for maintenance and production facilities. (House Sec. 2612)

House Report 112-78 Items of Special Interest

Air filters for National Guard helicopters

The committee notes that Inlet Barrier Filtration (IBF) and Auxiliary Power Unit (APU) filtration systems capture 99 percent of air particles, including grit and other abrasives that degrade and destroy the internal components of rotorcraft engines. The substantial cost savings in engine repair, overhaul, class 9 replacement parts, and maintenance labor have been well documented throughout the Army and Army National Guard (ARNG). The committee believes that installing IBF and APU filtration systems on these aircraft could reduce maintenance costs and increase readiness rates. The committee encourages the ARNG to fund IBF and APU filtration systems in the future.

UH-72A Lakota helicopter aircraft survivability equipment

The budget request contained \$250.4 million for procurement of 39 UH-72A Lakota helicopters.

The committee remains supportive of the UH-72A helicopter program. The committee notes that with over 150 aircraft now delivered to the Army on cost and within schedule, the UH-72A has proven to be a robust and efficient multirole platform. The committee understands that the UH-72A has a documented requirement for 210 helicopters to support domestic missions in “permissive” environments. The committee believes that there may be opportunities to leverage this aircraft to meet additional operational needs for the warfighter. However, before this happens, the committee needs to understand how the Army defines “permissive” versus “non-permissive” environments. In addition the committee needs to understand what the associated survivability modifications would be required and if such modifications would be feasible, given size, weight, and power limitations, if the mission envelope of the UH-72A was expanded beyond “permissive” environments.

The committee recommends \$250.4 million, the full amount requested, for procurement of 39 UH-72A Lakota helicopters.

Abrams tank program National Guard modernization

The budget request contained \$181.3 million for the Abrams tank upgrade program.

The committee notes that the National Guard currently has six Heavy Brigade Combat Teams (HBCT) that consist of the Abrams M1A1 tank which is an analog based system and active duty HBCTs operate the more modern M1A2 tank which uses a digital system. The committee also notes that there are significant differences in capability, particularly for growth and survivability between the M1A1 and M1A2 SEP (version 2) that now is being produced under the current Multi-Year Procurement contract. The committee understands that under the original Future Combat Systems (FCS) strategy, the Army planned to cascade the M1A2 tanks to the National Guard. However, as a result of the termination of the FCS program, the Army has yet to develop a plan to modernize the National Guard HBCT in the near term. Given the Army’s top development project is currently the tactical “network,” which requires a digital capability, the committee believes the National Guard needs the M1A2 tank in order to stay aligned with the Army’s tactical network strategy.

The committee further notes that the Army must maintain the ability for its Heavy Brigade Combat Teams to overmatch any possible threat in the future. The committee is concerned that even with the funds requested for fiscal year 2012, the Abrams tank production would shut down in fiscal year 2013, and the Army is unsure that the production line and supporting industrial base would be available when it starts future upgrades to Abrams tanks in fiscal year 2016. The committee believes that the Army must rapidly accelerate future Abrams tank upgrades, or it must continue production of the most capable version of the M1 Abrams until the upgrade program begins. The committee believes that the most prudent course of action is to bridge the planned production gap with production of the most capable version of the M1 tank, the M1A2 system enhancement program version 2 (M1A2 SEpv2), at the most economical rate possible. The committee also believes that the cost of shutting down and then restarting the Abrams production line would be significant and may cost as much as it would to “pure fleet” the National Guard with the most modern version of Abrams tanks.

The committee recommends \$453.3 million, an increase of \$272.0 million, for the Abrams tank upgrade program to procure additional M1A2 SEpv2 tanks using the current multi-year contract, with the additional tanks being used to replace less capable versions of the M1 tank in the Army National Guard or prepositioned equipment sets.

Information management system for the National Guard

The committee believes that the National Guard Bureau Weapons of Mass Destruction Civil Support Teams (WMD CST) play an important role in support to civil authorities at a domestic Chemical, Biological, Radiological, Nuclear, and High Explosive (CBRNE) incident site. The committee is aware that a tactical information management system has been fielded to the CST's to provide crucial command, control, and communications capabilities. The committee is also aware that in the event of such an incident, National Guard assets such as the CBRNE Enhanced Response Force Package and Homeland Defense Response Force units could deploy to support the CST's. Therefore, to ensure connectivity and unity of effort of all deployed National Guard assets, the committee encourages the National Guard Bureau to expand the CST information management system to these follow-on forces.

Flight Simulator Training Hour Restoration

As part of the Department of Defense's efficiencies initiative, the budget request cut the Army Guard and Air Force Active and Reserve Components flying hours program for training with the intent that simulators would be used to backfill the training requirements.

The committee recommends restoring the reduction to the flying hours program for the training of the Army Guard and Air Force Reserve Components. The committee is concerned that the reduction was levied on the Reserve Components without considering their lack of access to the high-fidelity, networked simulators that are resident in the active Army and Air Force.

Wounded Warrior Implementation

Section 511 of the National Defense Authorization Act of 2008 (Public Law 110-181) provided the authority enabling military technicians (dual status) to continue to be employed as technicians when the loss of their military membership in the Selected Reserve is the result of a combat-related disability. The National Guard Bureau issued implementing instruction in June 2009 to the state-level National Guard Headquarters. Unfortunately, the implementation guidance may not have been distributed to all pertinent levels of personnel and dual-status technicians may not have been informed of this program. Therefore, the committee directs the National Guard Bureau to reissue the implementing instructions to the state and territory headquarters with additional guidance to ensure the information is disseminated to the lowest level possible.

State Partnership Program

The committee continues to believe that the National Guard's State Partnership Program (SPP) is an important part of the larger Department of Defense (DOD) effort to build the capacity of our foreign partners in a wide variety of security related activities. The committee notes, however, that the Department of Defense has yet to issue regulations regarding the use of Department funds to pay the costs associated with SPP, as required by section 1210 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84). The committee understands that the Department of Defense is preparing to issue a Directive Type Memorandum (DTM) on SPP and encourages it to complete that process as soon as possible.

In the meantime, the committee is aware that pending the release of the DTM and DOD regulations, some National Guard units have taken a conservative view of the scope of authorized SPP activities, and have curtailed their engagement with partner countries accordingly. The committee commends this approach, but does not want SPP activities unnecessarily limited and therefore encourages the National Guard to proactively consult the Office of the General Counsel of the Department of Defense if clarification regarding certain engagement programs is required.

Intra-theater and inter-theater airlift programs

The budget request contained \$396.8 million for C-17 modernization, \$1.1 billion for the C-5 Reliability Enhancement and Re-engineering program, \$141.3 million for procurement of 1 C-130H/J aircraft, \$1.1 billion for procurement of 10 HC/MC/AC-130 aircraft, and \$571.6 million for 9 C-27J aircraft.

The committee notes in regards to inter-theater airlift aircraft programs, the Secretary of the Air Force requested to repeal section 8062(g) of title 10, United States Code, which provides that the Secretary of the Air Force maintain a minimum inventory of 316 strategic inter theater airlift aircraft. The committee does not support repeal and believes that a minimum inventory of 316 airlift aircraft provides a prudent balance of operational risk, affordability and sufficient organic capabilities in meeting the ever-increasing mobility requirements in support of the National Military Strategy and combat operations. The committee's rationale stems from concerns regarding the future viability of the Civil Reserve Airlift Fleet, the reliance of transporting oversize and outsize cargo using foreign aircraft leasing arrangements, the unforeseen over-utilization rates of the current fleet of inter-theater airlift aircraft, the consistent under-estimation of deploying units Time-Phased Force and Deployment Data regarding the amount of equipment to support combat operations, and the Mobility Capability and Requirements Study does not address or characterize the operational risk in meeting combatant commander warfighting requirements or timelines.

The committee notes in regards to intra-theater airlift aircraft programs, that the Department of Defense continues to struggle with sufficiently, and comprehensively, analyzing and defining intra-theater airlift mobility requirements for active and reserve components, as well as National Guard units supporting both title 10 and title 32, United States Code, airlift mobility operations. The committee continues to believe that a reduction in the C-130H/J inventory from 395 to 335 aircraft, a reduction in the inventory of C-27J aircraft from 78 to 38, and a wholesale inventory reduction by the Army of 42 C-23 aircraft is unjustified, premature and based on insufficient analytics, and moreover, executed for budgetary reasons. Furthermore, the committee understands that neither the 2006 Mobility Capability Study or the 2010 Mobility Capability and Requirements Study did not comprehensively analyze all aspects of intra-theater airlift requirements in the mission areas of time sensitive-direct support, homeland security, Air Force and Army National Guard domestic airlift operations in support of contingencies resulting from natural disasters, humanitarian crises, emergencies, and combatant commander warfighting requirements. Unless the Department has analysis that indicates the original requirement for 78 C-27J aircraft is no longer valid, the committee supports the procurement of 9 C-27J aircraft in fiscal year 2012 and the acquisition of C-27Js in fiscal year 2013 and beyond to meet the requirements of the National Guard. Without a comprehensive analysis of the aforementioned mission areas, it is impossible to justify such a decrease in intra-theater airlift capabilities.

In the committee report (H. Rept. 110-652) accompanying the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009, the committee expressed concerns regarding the C-27J program. On April 29, 2011, the Secretary of the Air Force notified the committee that the program unit cost of the aircraft had grown from the April 2008 program baseline by \$8.7 million per aircraft and the estimated operations and sustainment costs of the aircraft had grown by \$1.5 billion, resulting in a significant Nunn-McCurdy breach. An aircraft quantity decrease of 78 to 38 total aircraft and an immature sustainment plan from the original program of record were primary contributing factors to the Nunn-McCurdy breach.

Elsewhere in this title, the committee includes a provision that would prohibit the Secretary of the Army from retiring C-23 aircraft until one year after the Director of the National Guard, in consultation with the Chief of Staff of the Army, the Chief of Staff of the Air Force, Commander, U.S. Northern Command, Commander, U.S. Pacific Command, and the Administrator of the Federal Emergency Management Agency submits an intra-theater airlift study to the congressional defense committees that incorporates a comprehensive review of intra-theater airlift requirements for both title 10, United States Code, and title 32, United States Code operations. Lastly, if the intra theater airlift requirements of the study are not sufficiently supported by the currently planned intra-theater airlift force structure of the Department of Defense, the committee encourages the Department to procure the most cost-effective and mission-effective airlift aircraft to meet requirements.

National Guard and Reserve Component Equipment Fund

The budget request for Overseas Contingency Operations contained \$280.0 million for National Guard and Reserve equipment.

The committee notes the specific amount of resources, including equipment, needed to achieve the National Guard and Reserve Component's new operational reserve status remains a challenge, given the dual mission responsibility of the National Guard and Reserve Components, in particular the National Guard. The committee understands that despite recent increases in equipment funding levels that equipment shortfalls still exist for the National Guard and Reserve Components. The committee believes additional funds would help eliminate identified shortfalls in the areas of critical dual-use equipment. The committee expects these funds to be used for the purposes of, but not limited to the procurement of: aircraft, missiles, wheeled and tracked combat vehicles, tactical wheeled vehicles, ammunition, small arms, tactical radios, non-system training devices, logistics automation systems, remote weapon stations, chemical/biological protective shelters, and other critical dual-use procurement items for the National Guard and Reserve Components. The committee understands the National Guard is also in the process of upgrading central pedestal displays for their F-16 block 30 aircraft and recommends the National Guard examine the viability of utilizing a similar upgrade program for F-16 block 40 and 50 aircraft.

The committee recommends \$505 million, an increase of \$225 million for National Guard and Reserve equipment within the Overseas Contingency Operations budget request. Elsewhere in title 1 of this Act, the committee recommends \$4.8 billion, an increase of \$100.0 million, for National Guard and Reserve equipment.

Explanation of Funding Adjustment

The committee recommends a reduction of funding for a project contained in the budget request for military construction and family housing. This reduction includes:

- (1) \$12,721,000 for TFI – F-22 Combat Aircraft Parking Apron at Joint Base Pearl Harbor-Hickam, Hawaii.

The budget request included \$12,721,000 and would construct an aircraft parking apron for twenty F-22 Aircraft.

The committee supports the requirements associated with this project but notes that other projects authorized for appropriation in the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111-383) will have a cascading impact on the timely construction of this project. The committee supports the authorization for appropriations in an amount equivalent to the ability of the military department to execute in the year of the authorization for appropriations. For this project, the committee believes that the Department of Defense has exceeded its ability to fully expend the funding in fiscal year 2012. Accordingly, the committee recommends \$0, a reduction of \$12,721,000, to support this project.

Senate Report 112-26 Items of Special Interest

Army National Guard Technicians

The committee recommends maintaining Army National Guard non-dual status technician end strength at 1,600, consistent with prior years. The committee notes that under a Presidential waiver of end strength limitations, the Army National Guard currently employs over 3,000 non-dual status technicians, many of whom serve at State headquarters rather than supporting operational units. Further, in section 513 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111-383), Congress provided temporary hiring authority for non-dual status technicians necessary to replace deployed dual status technicians. This provision should alleviate short-term shortages caused by deploying technicians. The committee considers the end strength limitations of this section sufficient to meet permanent peacetime requirements. The committee urges the Department to meet any additional long-term civilian personnel needs through existing civilian personnel hiring processes, rather than through the non-dual status technician program.

C-27J

The budget request included \$571.6 million in Aircraft Procurement, Air Force, to buy nine C-27J aircraft. This purchase would complete the current program of record with a total of 38 aircraft. When there were separate C-27J programs within the Army and Air Force, the Army had established the requirement for filling the direct support role as 78 aircraft, based on an analysis of alternatives. Subsequently, the Air Force decided that a total program of 38 C-27Js would be sufficient to meet their responsibility for providing direct support mission capability for the Army. The Air Force based this conclusion on: (1) an analysis of the Army's demand for direct support mission support; (2) a Mobility Capability Requirements Study conclusion that the programmed Air Force fleet of 401 C-130 aircraft exceeded maximum demand for intratheater airlift in any wartime scenario by 66 C-130 aircraft; and (3) an analysis that showed that a supply of 38 C-27J aircraft, along with 20 C-130 aircraft diverted from an intra-theater airlift mission to the Army direct support mission, would meet the Army's needs.

The Defense Department (DOD) also has requirements for supporting domestic missions, such as those from the Department of Homeland Security. Absent other information, it would appear to the committee that the Department merely assumes that it can muster the appropriate support for domestic missions from within those forces that are derived from war fighting requirements. Just as it has turned out that the current conflicts in Afghanistan and Iraq were not exactly the "lesser included contingencies" that previous defense planning had assumed, it is altogether possible that the same would be true for meeting whatever domestic demands may be placed on the Department.

The set of circumstances raises several questions: (1) since the cost per flying hour should be much less expensive for a C-27J aircraft, should the Air Force buy more C-27Js specifically for meeting the Army direct support mission, rather than recapitalizing C-130 inventory that may be excess to intra-theater airlift requirements?; and (2) is there an appropriate structure and processes in place for estimating requirements for DOD domestic support and translating those requirements into DOD programs, to the extent that the requirements may not be satisfied within existing DOD forces?

The committee directs the Secretary of the Air Force to conduct a cost/benefit analysis of buying more C-27Js than the current 38- aircraft program specifically for meeting the Army direct support mission, rather than recapitalizing C-130 inventory that may be excess to intra-theater airlift requirements.

The committee also directs the Under Secretary of Defense for Policy to provide a report on the appropriate structure and processes in place that DOD should have for estimating requirements for DOD domestic support and translating those requirements into DOD programs, to the extent that the requirements may not be satisfied within existing DOD forces.

The committee directs the Department to provide both of the reports no later than the submission of the fiscal year 2013 budget request.

Strategic airlift aircraft force structure

The Department of Defense (DOD) authorization request included provisions that would: (1) strike subsection (g) of section 8062 of title 10, United States Code; and (2) change the certification requirement in section 137 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84).

Subsection (g) of section 8062 requires the Secretary of the Air Force to maintain a strategic airlift aircraft inventory of 316 aircraft.

Section 137 prevents the Secretary of the Air Force from retiring a C-5 aircraft until the Secretary certifies that the retirement of such aircraft will not increase the operational risk of meeting the National Defense Strategy and that the retirement of such aircraft will not reduce the total strategic airlift force structure below 316 strategic airlift aircraft.

The committee has not included the requested provisions because of concerns about whether the Air Force would be able to meet wartime and peacetime requirements with acceptable trade-offs between operational risk and affordability. The committee recognizes that the Defense Department completed an update of study of strategic lift requirements last year that identified a peak wartime demand for strategic airlift aircraft of 32.7 million ton-miles per day. With the current fleet of C-5 aircraft and when all C-17 aircraft currently on order are delivered, the Air Force would have a wartime capability of roughly 35.8 million ton-miles per day.

The study, however, made no assessment of requirements for peacetime sustainment, nor did it address the operational risk in meeting combatant commander warfighting requirements for tonnage or timeliness.

The committee believes that it needs more information on these and other issues before recommending a change to the current requirements.

The committee intends to seek such information, and, if persuaded that a change is appropriate, will act on this DOD proposal.

The Committee understands, as a result of information provided by the Air Force, that by allowing the Air Force to reduce the fleet to 299 aircraft, the U.S. Government would avoid paying hundreds of millions of dollars more in unprogrammed maintenance costs through fiscal year 2016, including costly investments in avionics upgrades and maintenance for aircraft slated for retirement. The committee agrees that DOD and the American taxpayer should not spend millions of dollars maintaining aircraft that DOD does not need.

Guard and Reserve budget requests

The committee recognizes that in the past, Congress has chosen to increase National Guard and Reserve military construction budgets above the amounts requested by the President. For example, in fiscal years 2008-2010, the last 3 fiscal years funded with congressional additions, the Air Force National Guard and Reserve appropriations more than doubled over the budget request. In fiscal year 2011, Congress added over \$300.0 million to the President's request for all of the reserve components; and in 2010, Congress added approximately \$600.0 million, 60 percent above the President's request.

We are concerned that the Department has, in previous years, under-budgeted National Guard and Reserve military construction accounts. Therefore, the committee directs each of the services to review the future-years defense program for National Guard and Reserve military construction to determine if currently projected funding levels, if enacted into law, will result in infrastructure funding deficiencies for these components.

***Indicates that the funding is Authorized and is subject to Appropriations funded within the Fiscal Year 2012 Defense Appropriations Act or the Fiscal Year 2012 Military Construction Appropriations Act**