



FY2013 National Defense Authorization Act

*Analysis of H.R. 4310, the National Defense Authorization Act for
Fiscal Year 2013.*



As of 3 January 2013

Bills Status

	Passed in Committee	Passed in Chamber	Agreement	Final Passage	Signed into Law
House H.R. 4310	<input checked="" type="checkbox"/> 10 May 2012	<input checked="" type="checkbox"/> 18 May 2012	<input checked="" type="checkbox"/> 18 December 2012	<input checked="" type="checkbox"/> 20 December 2012	<input checked="" type="checkbox"/> 3 January 2013
Senate S. 3254	<input checked="" type="checkbox"/> 24 May 2012	<input checked="" type="checkbox"/> 4 Dec 2012		<input checked="" type="checkbox"/> 21 December 2012	

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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 law is available on the NGB-LL web page at [HTTP://WWW.NG.MIL/LL/](http://www.ng.mil/ll/)

STATUS

On 3 January, the President signed H.R. 4310, the Fiscal Year 2013 National Defense Authorization Act. The final act was a compromise between House and Senate provisions.

The House passed the compromise bill on 20 December. During floor debate, Rep. Loeb sack (D-IA-2) said that for the first time in his career he would not vote in favor of the annual Defense Authorization Act because he “strongly oppose[s] allowing plans to significantly cut the Air National Guard embodied in this bill.” The Senate passed the compromise bill on 21 December.

HIGHLIGHTS

This analysis reflects the law as signed by the President.

The law includes a number of provisions related to the National Guard, and shows Congress’ continued support for the National Guard as an operational force. Many of the provisions directly support the Citizen Soldiers and Airmen of the National Guard.

Air National Guard Force Structure

The law requires the Secretary of the Air Force to retain 32 fixed-wing, intra-theater airlift aircraft beyond the number of aircraft proposed to be retained in the Secretary’s total force structure proposal provided to the congressional defense committees on 2 November 2012. These 32 aircraft would be kept to support the Army’s fixed-wing direct support/time sensitive airlift mission requirements of 40 dedicated aircraft. The Air Force’s revised proposal already incorporated an extra eight C-130 aircraft that could be used to support the Army’s mission requirements. In retaining an additional 32 aircraft, the Secretary of the Air Force should have the discretion to choose C-130s, C-27s, or a combination of both.

The law also lowers the requirement for strategic airlift aircraft from 301 to 275, but not until a comprehensive report on the full-spectrum mobility requirements needed to meet the 2012 Defense Strategic Guidance is submitted to Congress.

The law also increases Air National Guard end strength and full time support above the requested levels.

The law creates a Commission to study the future force structure of the Air Force. This Commission would be made up of eight members including the Chairman of the Reserve Forces Policy Board. The Commission would study the current structure of the Air Force to determine whether the structure should be modified to best fulfill current and anticipated mission requirements. The Commission is expected to give particular consideration, among other things, to the appropriate balance of active and reserve components and to the reserve components ability to support homeland defense and disaster response missions.

Other Aircraft

The law does not include a provision to retain C-23 aircraft. The House passed bill had included this provision.

State Partnership Program

The law prohibits the Secretary of Defense from obligating or expending fiscal year 2013 funds for the State Partnership Program until two requirements are met.

Civil Support Teams

The law also authorizes two additional WMD-CSTs bringing the total to 57 teams.

A detailed analysis can be found below

*Indicates that the funding is **Authorized** and is subject to **Appropriations** funded within the Fiscal Year 2013 Defense Appropriations Act, or the Fiscal Year 2013 Military Construction Appropriations Act

Army National Guard

Authorization of Funding

(All Dollars in Thousands)

Army National Guard	President's FY13 Budget Request	House Passed	Delta from PB	Senate Passed	Delta from PB	Conference Report	FY13 Delta from PB
O&M*	\$7,108,612	\$7,078,312	-\$30,300	\$7,108,612	\$0	\$7,158,012	+\$49,400
OCO O&M*	\$382,448	\$382,448	\$0	\$382,448	\$0	\$382,448	\$0
MILCON*	\$613,799	\$613,799	\$0	\$613,799	\$0	\$613,799	\$0

Army National Guard End Strength

Army National Guard	President's FY13 Budget Request	House Passed	Delta from PB	Senate Passed	Delta from PB	Conference Report	FY13 Delta from PB
End Strength	358,200	358,200	0	358,200	0	358,200	0
AGR	32,060	32,060	0	32,060	0	32,060	
Dual Status Technicians	28,380	27,210	-1,170	28,380	0	27,210	-1,170
Non-Dual Status Technicians	1,600	1,600	0	1,600	0	1,600	0
ADOS	17,000	17,000	0	17,000	0	17,000	0

Air National Guard

Authorization of Funding

(All Dollars in Thousands)

Air National Guard	President's FY13 Budget Request	House Passed	Delta from PB	Senate Passed	Delta from PB	Conference Report	FY13 Delta from PB
O&M*	\$6,015,455	\$6,330,460	+\$315,005	\$6,015,455	\$0	\$6,185,555	+\$170,100
OCO O&M*	\$19,975	\$19,975	\$0	\$19,975	\$0	\$19,975	\$0
MILCON*	\$42,386	\$42,386	\$0	\$42,386	\$0	\$42,386	\$0

Air National Guard End Strength

Air National Guard	President's FY13 Budget Request	House Passed	Delta from PB	Senate Passed	Delta from PB	Conference Report	FY13 Delta from PB
End Strength	101,600	106,005	+4,405	106,435	+4,835	105,700	+4,100
AGR	14,305	14,952	+647	14,871	+566	14,765	+460
Dual Status Technicians	21,101	22,272	+1,171	22,313	+1,212	22,180	+1,079
Non-Dual Status Technicians	350	350	0	350	0	350	0
ADOS	16,000	16,000	0	16,000	0	16,000	0

Procurement

Reports on Airlift Requirements of the Army: The law requires the Secretary of the Army to provide an annual expansive report on Time-Sensitive/Mission-Critical cargo airlift movements and sorties aggregated by Army, Air Force, and contract supported airlift aircraft. This report would include an explanation of why Air Force aircraft were not utilized to support the mission (Sec. 112).

Reduction of Strategic Airlift Aircraft: The law lowers the number of strategic airlift aircraft from 301 to 275. This could not happen until 45 days after the date on which a Mobility Requirement and Capabilities Study that describes the full-spectrum mobility requirements needed to meet the 2012 Defense Strategic Guidance is submitted to Congress. The law also requires the Secretary of the Air Force to preserve all C-5 aircraft during a period in which the total inventory of strategic airlift is below 301 in flyable condition (Sec. 141). Note: The Fiscal Year 2012 National Defense Authorization Act, (P.L. 112-81), lowered the number from 316 to 301.

Avionics Systems for C-130 Aircraft: The law prevents the Secretary of the Air Force from cancelling or modifying the C-130 Avionics Modernization Program (AMP) until 90 days after the Institute for Defense Analyses submits to the congressional defense committees a cost-benefit analysis of modernizing the legacy C-130 airlift fleet with C-130 AMP as compared to only modernizing the legacy C-130 airlift fleet with a reduced scope program for avionics and mission planning systems. The cost-benefit analysis would take into account the impact of lifecycle costs for both C-130s upgraded with C-130 AMP and C-130s not upgraded with C-130 AMP, and for legacy C-130 aircraft that are not upgraded with C-130 AMP, the impacts to future sustainment and maintenance costs associated with certain avionics and mission systems upgrades that may be required in the future for legacy C-130 aircraft to remain relevant and mission effective throughout the full service-life of the aircraft (Sec. 143).

Operation and Maintenance

Aerospace Control Alert Mission: The law requires the Secretary of Defense to establish a consolidated budget justification display that fully identifies the baseline aerospace control alert budget (Sec. 352).

National Commission on the Structure of the Air Force

Establishment of Commission: The law authorizes a Commission on the Structure of the Air Force that shall consist of eight members, four appointed by the President (one shall be the Chairman of the Reserve Forces Policy Board) and four appointed by Congress (Sec. 362).

Duties of the Commission: The law authorizes the Commission to study the current structure of the Air Force to determine whether the structure should be modified to best fulfill current and anticipated mission requirements. The Commission shall give particular consideration, among other things, to the appropriate balance of active and reserve components and to the reserve components ability to support homeland defense and disaster response missions. The Commission shall submit a report no later than 1 February 2014 (Sec. 363)

Military Personnel Policy

Codification of Staff Assistant Position for Joint Staff Related to National Guard and Reserve Matters: The law codifies in title 10, the Staff Assistant position on the Joint Staff related to National Guard and Reserve Matters. The law requires that each Assistant to the Chairman have significant joint duty experience (Sec. 511).

Automatic Federal Recognition of Promotion of Certain National Guard Warrant Officers: The law automatically extends Federal recognition on members of the National Guard who are promoted from the grade of warrant officer 1, to chief warrant officer 2 (Sec. 512).

Availability of Transition Assistance Advisors to Assist Members of Reserve Components

Who Serve on Active Duty for More than 180 Consecutive Days: The law authorizes the Chief of the National Guard Bureau to establish a program to provide Transition Assistance Advisors in each State to serve as statewide points of contact to assist eligible members of the Reserve Components in accessing benefits and health care (Sec. 513).

Additional Behavioral Health Professional to Conduct Pre-Separation Medical Exams for

PTSD: The law authorizes licensed clinical social workers and psychiatric advance practice registered nurses to conduct pre-separation medical exams for Post-Traumatic Stress Disorder (Sec. 518).

Modification of Authority to Conduct Programs on Career Flexibility to Enhance Retention of

Members of the Armed Forces: The law extends the Career Intermission Pilot Program to National Guard and Reserve personnel (Sec. 522).

Sense of Congress Regarding Support for Yellow Ribbon Day:

The law expresses the sense of Congress supporting the goal and ideals of Yellow Ribbon Day in honor of service members and other individuals serving overseas (Sec. 568).

Authority to Retain or Recall to Active Duty Reserve Component Members who are Victims of

Sexual Assault While on Active Duty: The law allows the Secretary concerned, upon request of the member, to order a member of the Reserve Component to remain on active duty for no more than 180 days if that member has alleged to be a victim of sexual assault while on active duty before a determination of that assault is made (Sec. 571).

Reserve Component Suicide Prevention and Resilience Program:

The law requires the Secretary of Defense to carry out a program to provide training in suicide prevention, resilience, and community healing and response to suicide at Yellow Ribbon Reintegration Program events and activities (Sec. 581).

Study on Resilience Programs for Members of the Army:

The law requires the Secretary of the Army to conduct a study of resilience program within the Army (Sec. 583).

Compensation and Other Benefits

Increase in Basic Pay: The law increases military basic pay by 1.7% (Sec. 601).

Rates of Basic Allowance for Housing for Members Performing Active Guard and Reserve

Duty: The law requires that Basic Allowance for Housing (BAH) paid to a member a Reserve Component performing active guard and reserve duty be based on their permanent duty station in most cases. The law would also require that BAH eligibility remain uninterrupted during transitions (Sec. 604).

Payment of Benefit for Nonparticipation of Eligible Members in PDMRA Program Due to

Government Error: The law allows for payments of \$200 for each day of nonparticipation of members in PDMRA that was eligible to participate but did not due to Government error (Sec. 605).

One-year Extension of Certain Expiring Bonus and Special Pay Authorities:

The law provides 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; income replacement payments for reserve component members experiencing extended and frequent mobilization for active duty service; and inactive duty travel pay (Sec. 611).

Increase in Maximum Amount of Officer Affiliation Bonus for Officers in the Selected

Reserve: The law increases the maximum amount that may be paid to officers who enter in an agreement to serve in the Selected Reserve for a specified contract period from \$10,000 to \$20,000 (Sec. 616).

Increase in Maximum Amount of Incentive Bonus For Reserve Component Members Who Convert Military Occupational Specialty to Ease Personnel Shortages: The law increases the maximum amount of incentive bonus for reserve component members who convert military occupational specialty to ease personnel shortages from \$2,000 to \$4,000 (Sec. 617).

Permanent Change of Station Allowances for Members of Selected Reserve Units Filling a Vacancy in Another Unit After being Involuntarily Separated: The law provides travel and transportation pay for member of the Selected Reserve filling a vacancy in a Selected Reserve unit. The law would also provide travel and transportation allowances for dependants and household effects for members of the Selected Reserve that fill a vacancy at a duty station more than 150 miles from the members' residence if the member was involuntarily separated (Sec. 621).

Authority for Comprehensive Program for Space-A Travel on Department of Defense Aircraft: The law authorizes space-available travel for retired members residing in Commonwealth or possession of the United States for certain health care services, within the program authority provided under 2641b of title 10, United States Code. The law also requires the Secretary of Defense to submit an implementation report on the program (Sec. 622).

Military Compensation and Retirement Modernization Commission: The law establishes a Commission to examine the compensation and retirement systems (Sec. 671).

Health Care

Extension of TRICARE Standard and TRICARE Dental for Members of the Selected Reserve Who are Involuntarily Separated: The law preserves eligibility of members of the Selected Reserve for TRICARE Reserve Select and TRICARE Dental insurance for 180 days at the discounted rate available to members of the Selected Reserve in the case of members who are involuntarily separated without cause due to end strength reductions or force management actions (Sec. 701).

Pilot Program on Enhancements of Department of Defense Efforts on Mental Health in the National Guard and Reserves Through Community Partnerships: The law authorizes the Secretary of Defense to carry out a pilot program with community partners to enhance Department of Defense efforts in research, treatment, education, and outreach on mental health, substance use disorders, and traumatic brain injury in National Guard and reserve members, their families, and their caregivers (Sec. 706).

General Provisions

Sense of Congress on Notice to Congress on Unfunded Priorities: The law requires members of the Joint Chiefs of Staff and the Commander of Special Operations Command to submit, within 30 days of the budget submission, a report containing a list of unfunded priorities (Sec. 1003).

Extension of Authority to Establish and Operate Counterdrug Schools: The law authorizes the Secretary of Defense to continue to operate the five National Guard Counterdrug Schools currently in existence for an additional period of 5 years. The five schools are located in St. Petersburg, Florida; Johnston, Iowa; Meridian, Mississippi; Fort Indiantown Gap, Pennsylvania; and Camp Murray, Washington. The law also requires a report on the activities of the National Guard counterdrug schools, including: the amount of funding for each school; the cumulative amount of funding made available to each school; a description of curriculum and training at each school; and a description of how the activities fulfilled Department of Defense counterdrug mission. The law also limits total funding for National Guard counterdrug schools to \$30,000,000 annually (Sec. 1008).

Biannual Reports on the Use of Funds in the Drug Interdiction and Counter-Drug Activities, Defense-Wide Account: The law requires the Secretary of Defense to submit a biannual report setting forth a description of the expenditure for funds by project code, from the Drug Interdiction and Counter-Drug Activities, Defense-wide account (Sec. 1009).

Limitation on Retirement of Fixed-Wing Intra-Theater Airlift Aircraft for General Support and Time Sensitive/Mission Critical Direct Support Airlift Missions of the Department of Defense:

The law requires that during Fiscal Year 2013, the Secretary of the Air Force retain an additional 32 fixed-wing, intra-theater airlift aircraft (C-27, C-130, or a combination of both) beyond the number of such aircraft proposed to be retained in the Secretary's total force structure proposal provided to Congress on 2 November 12. These 32 aircraft would be kept to support the Army's fixed-wing direct support/time sensitive airlift mission requirements of 40 dedicated aircraft. The Secretary of the Air Force will incorporate the Army's time sensitive or mission critical intra-theater airlift mission into the Air Force doctrine, strategy, tactics, and modeling by 1 June 2013. The law allows the Air Force to continue with force structure divestments, retirements, and transfers approved in request prior to Fiscal Year 2013 (Sec. 1059).

Report on Force Structure of the United States Army: The law establishes a bipartisan independent strategic review panel to conduct a regular review of the national defense strategic environment, an assessment of the quadrennial defense review, review of the future of the U.S. Army, and a report on the Army's future force structure (Sec. 1066).

Transfer of Excess Aircraft to Other Departments of the Federal Government: The law allows the Secretary of Defense to transfer up to seven excess aircraft to each the Secretaries of Agriculture and Homeland Security for use by the Forest Service and United States Coast Guard. The aircraft transferred are aircraft: a) identified by the Forest Service or Coast Guard as suitable platforms to carry out their respective missions; b) excess to need of the Department of Defense; c) acceptable for use by the Forces Services; and d) acceptable for use by the Coast Guard. The Secretary of Agriculture may use the aircraft only for wildfire suppression (Sec. 1091).

Matters Related to Foreign Nations

Limitation on Activities Under State Partnership Program Pending Compliance with Certain Program-Related Requirements: The law prohibits the Secretary of Defense from obligating or expending fiscal year 2013 funds for the State Partnership Program until the final regulations required pursuant to section 1210 of the National Defense Authorization Act for Fiscal Year 2010 (P.L. 111-84) are completed and the necessary regulatory adjustments have been completed to ensure compliance of the program with the Antideficiency Act (P.L. 97-258) (Sec. 1204).

Other Authorizations

Drug Interdiction and Counter Drug: The law authorizes \$1,025,263,000* for drug interdiction and counter drug activities of the Department of Defense (Sec. 1404).

Additional Weapons of Mass Destruction Civil Support Teams: The law authorizes two additional Weapons of Mass Destruction Civil Support Teams (WMD-CST) beyond the 55 previously authorized in law for a total of 57. The law prohibits the establishment of additional WMD-CSTs unless the Secretary of Defense requests the authority to establish such teams and their establishment is specifically authorized by law. The law would allow for the disestablishment of WMD-CSTs if a document is submitted to Congress. The provision also requires the Secretary to submit a comprehensive report on WMD-CSTs (Sec.1435).

Military Construction

Authorized Army National Guard Construction and Land Acquisition Projects: The law authorizes 36 military construction projects across 26 states, Guam, and Puerto Rico (Sec. 2601).

Authorized Air National Guard Construction and Land Acquisition Projects: The law authorizes four military construction projects across four states (Sec. 2604).

Modification of Authority to Carry out Certain Fiscal Year 2010 Projects: The law modifies the square footage authority related to an Army National Guard military construction project in North Las Vegas, NV (Sec. 2611).

Modification of Authority to Carry out Certain Fiscal Year 2011 Projects: The law modifies the square footage authority related to Army National Guard military construction projects in Ft Chaffee, AR; Windsor Locks, CT; Kalaeloa, HI; Wichita, KS; Minden, LA; San Inigoes, MD; Camp Grafton, ND; and Watertown, SD. The law would also allow the Secretary of the Air Force to convert 4,023 square meters of existing facilities to bed down Intelligence Group and Remotely Piloted Aircraft Remote Split Operations Group missions at Nashville International Airport (Sec. 2612).

UH-72A LUH Helicopter

The committees notes that the UH-72A Lakota Helicopter has proven to be a capable multi-role aircraft used in support of the Army National Guard's unique set of missions including, boarder security, disaster response, medical evacuation, and troop transport. The committee is aware that the Army has completed a survivability analysis and initial cost assessment on modifications that, if made, would allow the UH-72 to operate in non-permissive environments. The results of the analysis indicate that the UH-72A could be an effective and cost-efficient option to be used in support of additional operations in the continental United States (CONUS) and outside the continental United States (OCONUS), and in combat zones in support of contingency operations. The committee believes that further assessment should be conducted to evaluate potential courses of action for expanding the operational spectrum for the utilization of the LUH -72A. Therefore, the committee directs the Secretary of Defense, in coordination with the Secretaries of the military departments, to include the Chief of the National Guard Bureau, to submit a report to the congressional defense committees by February 15, 2013, that identifies where the UH-72A could provide operational efficiencies in support of permissive and non-permissive CONUS, OCONUS, and contingency missions. The report should include, at a minimum, a cost assessment that includes the costs associated with integrating aircraft survivability systems, testing costs to qualify the aircraft to operate in non-permissive environments, and costs associated with sustaining the aircraft in non-permissive environments.

Civil Support Team information management system

The committee is aware that the National Guard Bureau Weapons of Mass Destruction Civil Support Teams (WMD CST) currently field an information management system that provides a common operating picture, promotes information sharing and real-time collaboration in an emergency situation, and supports the CST mission of assisting and advising first responders and facilitating communications with other Federal resources. The committee believes that this system should be expanded to follow-on forces, such as the Chemical, Biological, Radiological, Nuclear, and High Explosive Enhanced Response Force Package and Homeland Defense Response Force units, to ensure the safety of military personnel and first responders, while supporting the interoperability necessary to effectively communicate and operate during large-scale domestic events.

Inter-theater airlift aircraft

The budget request contains \$1.7 billion for C-17 and C-5 inter-theater airlift aircraft programs. The budget request also contains a legislative proposal from the Department of Defense (DOD) to lower the inter-theater airlift aircraft minimum floor from 301 to 275 aircraft.

Air Force officials state that "Case 3" of the Mobility Capability and Requirements Study 2016 (MCRS-16) was the analytical underpinning for the new mobility force structure associated with the new 2012 Defense Strategy and that a strategic airlift fleet of 275 aircraft would support it. Of note, Case 3 is the least demanding scenario that was modeled in MCRS-16. The Case 3 results indicated that the Department would be required to provide 29.1 million-ton-miles per day (MTM/D). Of note, unlike past studies, the Department of Defense also levied an additional 5.0 MTM/D on the Civil Reserve Aircraft Fleet (CRAF) program and increased its requirement of provided airlift to 25.5 MTM/D. Past studies have only assumed that CRAF could provide 20.5 MTM/D because of the number of participants and quantity/type of aircraft in the commercial program. No significant improvements have occurred within the CRAF program that would signify that an increase from 20.5 to 25.5 MTM/D could actually be supported. Furthermore, the largest provider of commercial airlift to DOD as a CRAF participant recently declared bankruptcy. According to the MCRS-16 summary, the study recognized the reality of long-term U.S. involvement in globally dispersed operations which may include lengthy commitments to major campaigns. MCRS-16 realized important fact-of-life changes that placed new demands on the mobility system since the last mobility study, MCS-05, completed in 2006. The changes included a higher level of engagement around the world, increased reliance on the Reserve Components, increased reliance on airlift to move equipment and supplies that were once moved almost exclusively by surface transport, the introduction of new specialized equipment, the continued growth of Special Operations Forces, and the establishment of U.S. Africa Command. In response to these changes, the Department said that MCRS-16 provided an opportunity to make informed investment decisions designed to maintain the right mix of strategic and intratheater transportation capabilities. All of which remain valid today, and into the foreseeable future, despite the new 2012 defense strategy.

Officials from the Government Accountability Office noted in testimony on March 7, 2012, before the Subcommittee on Seapower and Projection Forces that MCRS-16 did not sufficiently characterize incurred operational risk, nor did MCRS-16 adequately articulate capability gaps or inventory excesses. Additionally, the committee notes that certain assumptions regarding prepositioned stock locations and inter-theater airlift aircraft operational metrics, such as aircraft availability and mission capability, are no longer valid and that actual aircraft performance metrics are notably less than those modeled during MCRS-16 scenario execution.

During the time period between fiscal year 2002 and 2011, there has been a heavy demand on mobility airlift. The C-17 has over flown its planned program of record by 106 percent, or 103,581 hours, and the C-5 fleet has over flown its planned program of record by 134 percent, or 151,570 hours. An Air Force mobility study, completed in September 2010 by the Air Force Office of Lessons Learned when the Air Force program of record was 316 inter-theater airlift aircraft, analyzed Afghanistan mobility operations and found that that “the Air Force does not own enough large and outsize airlift to execute Operation Enduring Freedom surge and sustainment without substantial utilization of contracted and tendered commercial carriers. These aircraft, chartered in their entirety by U.S. Transportation Command at a price tag that sometimes exceeded \$1.0 million per mission, deliver unmatched and irreplaceable outsize commodity capability to the warfighter.” Between 2006-11, the Department of Defense spent \$2.2 billion on foreign contracted strategic airlift.

In its February 2012 Air Force White Paper provided to Congress outlining the Air Force’s fiscal year 2013 force structure reorganization, the Air Force stated that “although the U.S. has removed all combat forces from Iraq and the new strategic guidance reduces the steady state requirement for ground forces, we expect Air Force steady state rotational requirements to remain nearly constant, or perhaps increase, under the new strategy.” DOD officials also stated to the committee during a briefing on February 23, 2012, that there will need to be further analysis of what the lift requirement, both inter-theater and intra-theater, will be for the new force lay-down plan in the Asia-Pacific Area of Responsibility.

Elsewhere in this title, the committee includes a provision that would require the Commander, U.S. Transportation Command, to provide to the congressional defense committees an operational risk assessment for meeting geographical combatant commander airlift requirements with an organic fleet of less than 301 inter-theater airlift aircraft.

Intra-theater airlift aircraft

The budget request contained \$234.1 million for C-130 airlift aircraft and no funding for C-27J aircraft. The budget request also includes no funding for the C-130 Avionics Modernization Program (C-130 AMP) and reduces the intra-theater aircraft inventory by 65 C-130H and 38 C-27J aircraft.

For the past 6 years, Air Force leadership has vigorously advocated the need for the C-27J program to meet the Army’s time-sensitive/mission-critical (TS/MC) airlift requirements, in a cost-effective and efficient manner. On February 27, 2008, the Under Secretary of Defense for Acquisition, Technology, and Logistics certified to Congress that “there is, within the Department of the Army, Department of the Air Force, Army National Guard, or Air National Guard, a capability gap or shortfall with respect to intra-theater airlift, and validated requirements exist to fill that gap or shortfall through procurement of the Joint Cargo Aircraft (JCA).” On the same date, the Chiefs of Staff for both the Air Force and the Army sent a letter to the congressional defense committees that stated “[we] stand together in support of the JCA. Time-sensitive/mission-critical resupply is crucial to our success as warfighters.”

On March 30, 2011, the Secretary of the Air Force testified to the Senate Appropriations Committee on Defense that “we continued C-27J procurement as an investment in overall [tactical airlift] fleet viability. Efforts to increase direct support airlift continue, with plans to beddown 38 C-27Js in the Air National Guard.” And the 2012 Air Mobility Command Master Plan, published November 2011, states that “the C-27J is intended to provide an efficient means of accomplishing the direct support role for distributed ground forces...lessons learned from Southwest Asia operations reveal the need for a smaller than C-130 aircraft. It must provide a responsive, small-scale airlift capability to better support time sensitive, mission critical needs of Joint operations, deployed Special Forces, coalition troops, or host nations. It must also be able to operate on remote, austere airfields or via airdrop. The C-27J fulfills these requirements and will be a superb complement to the C-130 and C-17 fleet capabilities...the C-27J’s capabilities are tailored for these future scenarios.”

Despite the Air Force's unwavering support for C-27J to date, the Air Force decided for fiscal year 2013 that the C-27J was no longer affordable and provided a business-case analysis (BCA) in February 2011 to the congressional defense committees explaining the new Air Force position. In the review of the BCA, the committee notes that the Air Force had to use many assumptions for estimated costs in lieu of historical and fact-based C-27J cost data. Without a sufficient amount of reliable program execution data for C-27J, life-cycle costs per aircraft for personnel, operations, maintenance, and depot activities to support the Air Force position that the C-27J will be more expensive to own and operate than either the C-130H and C-130J may be premature. Furthermore, the committee believes that a prudent, cost-effective basing strategy for 38 C-27J aircraft, and a comparison of the C-27J manning estimate requirement document to actual unit personnel today being used to own and operate the C-27J, may reduce the projected ownership costs of the C-27J below the Air Force estimate. Such a review may assist the Air Force in realizing a tax-payer return on investment by not having to send brand-new C-27J aircraft from the production line directly into long-term storage.

The committee also believes that a large reduction to the intra-theater airlift inventory puts at significant risk the Air Force's ability to meet both title 10 and title 32, United States Code, intra-theater airlift requirements for both steady-state and contingency operations. In its February 2012 Air Force White Paper provided to Congress outlining the Air Force's fiscal year 2013 force structure reorganization, the Air Force stated that "although the U.S. has removed all combat forces from Iraq and the new strategic guidance reduces the steady state requirement for ground forces, we expect Air Force steady state rotational requirements to remain nearly constant, or perhaps increase, under the new strategy." The Chief of Staff of the Air Force stated during a briefing to the committee on January 25, 2012, that his greatest concern with the new defense strategy was not having the capacity in the mobility and combat air forces to support and execute the new strategy. Department of Defense officials also stated to the committee during a briefing on February 23, 2012, that there will need to be further analysis of what the lift requirement, both inter-theater and intra-theater, will be for the new force lay-down plan in the Asia-Pacific Area of Responsibility. Compounding the issue is that fulfillment of the Army's direct-support/mission-critical airlift requirements could be placed at risk given the Army's plans to divest all of its C-23 Sherpa inventory over the Future Years Defense Program and the aged condition of its rotary-wing fleet of CH-47 rotorcraft.

Specifically pertaining to execution of the C-130J aircraft acquisition program, the committee is discouraged that the Secretary of the Air Force continues to foster procurement instability by annually altering forecasted procurement quantity rates that are significantly different from the preceding year's budget procurement quantity forecasted in future years. A continuous strategy of inconsistent quantity adherence and lack of advance procurement funding preceding the year of full funding for the aircraft induces: program instability; inefficient use of taxpayer's dollars; second and third order effects on subcontractor stability; touch-labor workforce perturbations; and, adverse aircraft pricing fluctuations. The committee encourages the Secretary of the Air Force to stabilize C-130J procurement and properly budget for advance procurement funding in future budget submissions.

Elsewhere in this Act, the committee includes provisions that would: preclude divestment of any C-27J aircraft during fiscal year 2013; require the Secretary of the Air Force, after fiscal year 2013, to wait 180 days after submitting the report required by section 112 of the National Defense Authorization Act for Fiscal Year 2012 (P.L. 112-81) and the Director, Congressional Budget Office submits a detailed life-cycle cost analysis for C-27J, C-130H and C-130J aircraft, before retirement, divestment or transfer of any C-27J aircraft; require the Secretary of the Air Force to continue the C-130 Avionics Modernization Program for the C-130 until the Institute for Defense Analyses conducts a business-case analysis; require an annual report from the Secretary of the Army regarding TS/MC airlift requirements fulfillment by the Air Force; and, require the Secretary of the Air Force to provide the congressional defense committees a report by March 1, 2013, that explains the rationale and planning for any proposed retirement, divestment, or transfer of any C-130 aircraft in fiscal years 2014 through 2017.

Transition of U.S. Territories from Overseas Housing Allowance to Basic Allowance for Housing

The committee recognizes that the administrative process supporting the payment of Overseas Housing Allowance (OHA) is more cumbersome for service members and program managers than is the process supporting payment of the Basic Allowance for Housing (BAH). The committee is interested in examining whether the BAH system would be better than the OHA system at providing housing allowances to service members assigned to duty in U.S. territories. Accordingly, the committee directs the Secretary of Defense to submit to the congressional defense committees by March 31, 2013, a report on the feasibility and

appropriateness of changing the process for determining housing allowances in U.S. territories from the OHA system to the BAH system. The report should provide an assessment as to which system better supports the quality of life of service members, and is most suitable to the housing market of each U.S. territory (American Samoa, Guam, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands). The report should also provide the comparable costs of operating the OHA and BAH systems in each of the U.S. territories, as well as the cost of implementing the transition from the OHA system to the BAH system.

MC-12W Intelligence, Surveillance, and Reconnaissance Aircraft Program

The Air Force MC-12W Intelligence, Surveillance, and Reconnaissance Aircraft Program is currently assigned to the Active Component. The Air Force has indicated it plans to transfer the MC-12W program to a program of record in the Air National Guard in fiscal year 2014. The committee is concerned that the Air Force has not fully considered the life-cycle costs and potential long-term operational impact of transferring the MC-12W program from a quick reaction capability to a program of record. Therefore, the committee directs the Secretary of the Air Force to provide a report to the congressional defense committees and the House Permanent Select Committee on Intelligence within 90 days after the date of the enactment of this Act, on all life cycle costs of basing, training personnel, and operating and maintaining the MC-12W program as a program of record in the Air National Guard.

Dual Status Technicians

Although the committee is supportive of the operational reserve and believes that there are requirements for increases in full time support, the committee cannot support an increase in the number of technicians at this time. In the committee report (H. Rept. 110-652) accompanying the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009, the committee directed the Secretary of the Army to review the projected 5-year requirements for the Army National Guard and the Army Reserve full-time manning and implement a plan to increase full time manning in both those components. The committee has yet to receive the review and the implementation plan from this directive. After several field visits and meetings with the Army National Guard and the Army Reserve, the committee believes it is best to take a comprehensive approach to the full-time manning of the operational reserve rather than piecemeal which has been the case over the past 5 years. The committee encourages the Secretary of the Army to conclude the review and provide a comprehensive full time support implementation plan to the committee.

Fair Treatment for Air National Guard and Air Force Reserve Service Members

The committee is concerned that the value of highly experienced Air National Guard and Air Force Reserve service members will not be taken into consideration during the reduction of force structure and change in unit missions announced with the release of the budget request. The committee believes that every effort should be explored to retain service members by instituting robust reassignment and retraining initiatives. In those cases where service members cannot be retained in an Active Duty status, the committee directs the Secretary of the Air Force, before the first of those involuntary separations is executed, to examine the process by which service members are separated and the package of benefits made available to them. The committee believes that service members' length of service should be considered and that the welfare of service members and families are protected, to include special attention to health care and educational benefits. The committee encourages the Secretary of the Air Force to inform the Secretary of Defense and Congress of any legislative proposals that may be required to remedy deficiencies in the separation benefits package being provided to Air National Guard and Air Force Reserve service members.

Military Technician (Dual Status)

The committee continues to have concerns with the management of the military technician (dual status) workforce and encourages the secretaries concerned to ensure that military technicians (dual status) understand the requirements of their employment, and the benefits and entitlements available to them as military technicians (dual status), including their rights before the Qualitative Retention Board and Selective Retention Boards. The committee also encourages the leadership of the Reserve Components to ensure the use and management of military technicians (dual status) is consistent with the laws, policies, and regulations governing military technicians (dual status).

Yellow Ribbon Reintegration Program

The committee recognizes the Department of Defense continues to improve its efforts to assist military personnel successfully transition from the military to civilian life. The committee applauds the National Guard and Reserve Components for its implementation and enhancement of the Yellow Ribbon Reintegration Program. The Office for Reintegration Programs has made significant strides in working with States to assist in the development of outreach programs for members of the Armed Forces and their families. This has been

invaluable for informing and educating members of the National Guard and the Reserve Components on the services and assistance available to them to ensure that the Nation fulfills its promise to the All-Volunteer Force. However, the committee is concerned that there are still gaps in transition from the Department of Defense to the Department of Veterans Affairs that impacts service members and their families, many of whom are simply unaware of the numerous services and assistance programs provided by the Department of Veterans Affairs.

Further, the men and women who are most susceptible to falling victim to the inadequacies of the transition from the Department of Defense to the Department of Veterans Affairs are oftentimes the most "at-risk" veterans. In addition, the committee believes that there are transitioning Active Duty service members who may benefit from the Yellow Ribbon Reintegration Program.

Therefore, the committee directs the Secretary of Defense to provide a briefing to the House Committee on Armed Services within 1 year after the date of the enactment of this Act on the feasibility of expanding access and outreach to transitioning Active Duty service members into the latter phases of the Yellow Ribbon Reintegration Program. The briefing should also address the ability of the Office for Reintegration Programs to work with the Department of Defense, the States, and Department of Veterans Affairs regional offices to contact service members and veterans returning from Active Duty, and discuss any initiatives necessary that may improve information sharing between the agencies, and awareness of transitioning and returning veterans at the outreach execution level within communities.

Traumatic Brain Injury

The committee continues to support the Department of Defense's efforts to identify and treat traumatic brain injury (TBI) occurring in members of the Armed Forces as a result of combat. The committee is aware of ongoing efforts to identify TBI, in particular the short-term medical needs associated with TBI, and expand access to treatment programs for all service members, including members of the Reserve Components and the National Guard. However, the committee is increasingly concerned about the potential long-term implications of TBI for members of the Armed Forces, in particular those who experience multiple traumatic brain injuries, and the support needed for these service members and their families.

The committee encourages the Secretary of Defense to continue to work with the National Guard, and its state organizations, to identify and partner with regional health providers and medical centers with expertise in psychiatric care and traumatic brain injury. The goal of this partnership is to develop, implement, and evaluate programs to improve the psychological and behavioral health and wellbeing of members of the National Guard and the Reserves. In addition, in order to maximize the use of publicly funded resources and organizations, the committee encourages the Secretary of Defense to collaborate with state government programs to assist service members, their families, and caregivers in accessing community resources and services that enable members with TBI to return to their homes and communities. The committee also encourages the Department to continue the research it has conducted with universities and similar entities, on the long-term risks of TBI and potential interventions, including novel drug therapies to enhance the treatments available for service members with TBI.

The committee is also aware that the Department of Defense-Department of Veterans Affairs Vision Center of Excellence is working together with the Defense Centers of Excellence for Psychological Health and Traumatic Brain Injury to develop clinical practice guidelines for primary medical providers to detect vision dysfunction associated with TBI. The Vision Center of Excellence is also working to develop a more effective ocular, oculomotor, and visual systems diagnostic capabilities and assessment strategies to address research gaps that have been identified. The committee is aware that there are several research projects involving visual dysfunction associated with TBI and directs the Secretary of Defense to provide a briefing to the House Committee on Armed Services within 180 days after the date of the enactment of this Act, on the results of these studies and the development of the clinical practice guidelines.

The Role of National Guard Cyber Defense Units

The committee is aware of the important role that certain National Guard units are playing in the computer network defense (CND) of Department of Defense information systems and computer networks. However, the committee is also aware that some CND-related activities may not be limited to dedicated cyber units. Moreover, it is unclear how the role of the CND-related units may differ or be affected when activated in a title 32 or State Active Duty-status.

Therefore, the committee directs the Secretary of Defense to provide a briefing to the congressional defense committees within 180 days after the date of the enactment of this Act identifying the National Guard units that have a CND role for the Department of Defense and a description of that role. The briefing should also include a description of what activities these units may be expected to perform when activated in a title 32 or State Active Duty-status, and the policies and authorities that are in place to govern those activities.

National Guard Bureau Counter-Drug Threat Based Resource Model

The committee is aware that the National Guard Bureau's Counter-drug Program uses a threat based resource model to allocate counter drug funding to be disbursed across the 54 states and territories. The committee is also aware that the data used for the United States territories, specifically Puerto Rico and the United States Virgin Islands, is not accurate. The variables used in the model including narcotics abuses, interdiction, and production of narcotics are not representative of the real threat facing these territories and, consequently, the United States homeland. The committee recognizes that the threat of violence and regional instability related to narco-trafficking and money laundering in the Commonwealth of Puerto Rico and the United States Virgin Islands directly impacts our national security.

The committee stresses the importance of accurate data information and entry into the threat based resource model in order to allocate funds and resources appropriately. The committee therefore supports efforts for the National Guard Bureau's Counter-drug Program to reexamine their data inputs into the threat based resource model concerning Puerto Rico and the United States Virgin Islands with regard to narco-trafficking and other illicit activities.

Weapons of Mass Destruction - Civil Support Team Reductions

The committee believes that continued weapons of mass destruction (WMD) threats demonstrate the enduring need for a robust domestic consequence management (CM) enterprise that is integrated across State and Federal units. The committee notes that the 2010 Quadrennial Defense Review (QDR) directed the Department of Defense (DOD) to "improve the responsiveness and flexibility of consequence management response forces." In response to QDR concerns, the committee believes that the Department and National Guard Bureau (NGB) produced a new domestic CM response organizational concept better aligned with the National Strategy for Homeland Security and the National Response Framework.

With the domestic CM response enterprise, the committee notes that the current 57 state-based WMD Civil Support Teams (CSTs) constitute the initial rapid response force to support local first responders; and that CSTs provide unique capabilities and expertise such as WMD detection and identification and rapid assessments of hazardous material, often not available to local responders. The committee further notes that the Secretary of Defense certified the 48th (Florida) and 24th (New York) WMD CSTs in 2011 and 2010, respectively. The President's fiscal year 2013 request, however, eliminated funding for the 48th and 24th CSTs. The committee is concerned that disestablishing these two CSTs may hinder response times to WMD events and increase the challenge of integrating operations with other State and Federal WMD response teams. The committee notes that neither the Department nor NGB coordinated with, or solicited input from, affected State and local authorities before making this decision. Furthermore, the committee is concerned that these disestablishments will occur right after funding was expended to train, equip, and prepare CSTs for certification.

Therefore, the committee directs the Secretary of Defense to deliver a report to House Committee on Armed Services no later than 90 days after the enactment of this Act.

The report should discuss the justification for eliminating funding to the 48th and 24th CSTs. Furthermore, the report should cover the following matters:

- (1) The impact on operational capability, (re)sourcing, response, potential gaps in integration with remaining CSTs and other State and Federal WMD CM response teams;
- (2) The expected budgetary savings over the Future Years Defense Program (FYDP) generated by disestablishing the 48th and 24th CST;
- (3) The costs of preparing the 48th and 24th CST for certification;
- (4) Resulting changes to the latest domestic WMD CM response construct;
- (5) Plans for future reduction in any CSTs over the FYDP; and
- (6) A strategy for engaging with State and local authorities if the Department plans to eliminate additional CSTs.

National Guard State Partnership Program

The committee supports the National Guard State Partnership Program (SPP), which focuses on improving long-term international stability through unique cooperative partnerships between 53 U.S. states and territories and 61 foreign partner countries. The committee applauds the SPP activities supporting partner capacity building in a wide range of areas including humanitarian assistance, emergency management, consequence management, emergency communications, disaster relief, counter-trafficking and counter-proliferation programs. In Section 1234 of the National Defense Authorization Act of Fiscal Year 2012 (P.L. 112-81), the Comptroller General of the United States was directed to submit a report assessing the program's effectiveness, including its goals, objectives, activities, and funding levels.

The committee is aware that the Government Accountability Office's (GAO) preliminary findings have shown widespread consensus among the combatant commands and embassy staffs that the SPP provides considerable benefits, such as promoting stability and security cooperation and assisting with building partnership capabilities. Additionally, the program is providing experience to participating guardsmen as well as a mechanism for developing relationships between the state Guard units and the partner countries. However, the committee is concerned that the GAO's preliminary findings also indicate that the SPP does not have clear and current program goals, objectives, and performance metrics to measure progress or allow a systematic assessment of the program's effectiveness. In addition, the committee understands the GAO's preliminary findings have found activity and cost data for SPP is incomplete and there is limited understanding among many program participants about implementing activities that include civilians. The committee looks forward to receiving GAO's final report and how the Department of Defense plans to address these program concerns.

National Guard and Reserve Component Equipment Fund

The budget request for Overseas Contingency Operations contained no funding for National Guard and Reserve Component equipment. Elsewhere in this Act, the budget request contained \$3.1 billion for National Guard and Reserve Component equipment.

The committee notes that the base request is a 44 percent reduction from the fiscal year 2012 enacted level. The specific amount of resources, including equipment, needed to adequately sustain the National Guard and Reserve Component's new operational reserve status remains a concern because of the fiscal environment, especially given the dual mission responsibility of the National Guard and Reserve Components, in particular the National Guard. The committee believes the National Guard and Reserve Components still have significant equipment shortages in modernized equipment, specifically in rotorcraft and the tactical wheeled vehicle fleet. Over the past 8 years, National Guard and Reserve Component equipment procurement averaged \$7.0 billion annually. The committee notes that across the Future Years Defense Program, procurement is expected to average \$3.8 billion annually, a significant reduction from previous year requests. The committee also notes that National Guard and Reserve component equipment modernization is not funded to 100 percent of what the National Guard and Reserve Components believe their requirements to be and that they are expected to have unfunded requirements in fiscal year 2013. For example, the Army National Guard will require additional funding over the next 10 years for tactical wheeled vehicles and aviation systems of \$500.0 million and \$1.3 billion, respectively. The Air National Guard equipment modernization shortfall is \$1.4 billion over the next 10 years.

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, internal and external fuel tanks for CH-47 and AH-64 rotorcraft, and other critical dual-use procurement items for the National Guard and Reserve Components.

The committee recommends \$500.0 million, an increase of \$500.0 million, for National Guard and Reserve Component equipment within the Overseas Contingency Operations budget request. Elsewhere in this Act, the committee recommends \$3.1 billion, full funding of the request, for National Guard and Reserve equipment.

Senate Report 112-173

Joint Surveillance/Target Attack Radar System

The budget request included \$59.3 million in Aircraft Procurement, Air Force (APAF), for the E-8 modifications program and \$24.2 million in Research, Development, Test, and Evaluation (RDT&E), Air Force for Joint Surveillance/Target Attack Radar Systems (JSTARS). Unlike previous years, the Air Force did not request procurement funding for the program to re-engine JSTARS aircraft. A portion of RDT&E funding supports continuing system development and demonstration (SDD) in the re-engining program. The committee recommends an increase of \$12.0 million to the budget request for APAF to restart the production line for the re-engining program.

The committee remains concerned by the slow progress of the re-engining program despite years of significant congressional support. The Air Force decided to delay the re-engining program pending an Analysis of Alternatives (AoA) of overall ground moving target indicator (GMTI) requirements. Last year, the Senate report accompanying S. 1235 (S. Rept. 112-26) of the National Defense Authorization Act for Fiscal Year 2012 said, "Regardless of what that study concludes, however, the committee believes that re-engining the JSTARS fleet makes sense. . . . However, even if the Air Force study were to conclude that some new system or combination of systems would provide better broad area GMTI for the future, it is hard to imagine that another alternative would actually begin complete fielding of a JSTARS replacement capability before the re-engining pays for itself."

Therefore, the committee was troubled that funding authorized and appropriated for re-engining over the past several years has either been reprogrammed or remains unspent. Last year, the committee recommended a provision requiring the Air Force Audit Agency to submit to the congressional defense committees the results of a financial audit of the funds previously authorized and appropriated for the JSTARS aircraft re-engining program. The committee still has not received the results of that audit.

The Air Force has still not produced the AoA either, so the budget remains silent on course of action for modernizing GMTI capability. However, in testimony before the committee on March 22, 2012, Air Force Chief of Staff General Norton Schwartz confirmed that the Air Force was going to stick with the E-8C program, testifying, "Notwithstanding the AoA . . . we will continue with the combination of the JSTARS GMTI capability, with the Block 40 Global Hawk." This prospect was confirmed in the Department of Defense's Annual Aviation Inventory and Funding Plan for Fiscal Years 2013-2042, which indicated that the Department has no alternatives to JSTARS expected to emerge in that 30-year period.

Since the Air Force will now clearly be keeping the E-8C aircraft for the foreseeable future, the committee believes it is even more critical that the Air Force budget sufficient funds to sustain JSTARS for the long term. The committee understands the need to proceed carefully through re-engining SDD to collect all necessary data to inform decisions about this program, as well as the difficulties associated with restarting the reengining process on a small fleet of aircraft in a constant state of high operational tempo.

However, the committee believes that proceeding with reengining of the JSTARS fleet to improve performance and fuel efficiency is consistent with warfighter requirements and Air Force priorities. Also, if the Air Force continues to operate the JSTARS platform for the foreseeable future, the Service will have to modernize other aspects of the JSTARS airframe and system. To keep the JSTARS system viable and avoid erosion in performance, the Air Force will have to pursue such modernization efforts as upgrading radars, replacing diminishing manufacturing source items (including those for primary mission equipment and avionics), and improving communications and target identification systems. From that perspective, the committee is concerned that the current future-years defense program (FYDP) includes minimal funding for JSTARS modernization efforts. Therefore, the committee believes the Air Force should devote increased funding toward JSTARS modernization in the next FYDP to ensure that the JSTARS aircraft continue to fly and operate for the foreseeable future, without any decrease in mission capable rates or system performance.

Army Manned Airborne Intelligence, Surveillance, and Reconnaissance Platforms

The budget request included \$47.4 million in PE 65626A to complete four Engineering and Manufacturing Development (EMD) phase Enhanced Medium Altitude Reconnaissance and Surveillance System (EMARSS) aircraft. The committee understands that the Army plans to take delivery of these EMD phase EMARSS aircraft, conduct a utility assessment of them and then field them into the U.S. Army Intelligence

and Security Command (INSCOM) Aerial Exploitation Battalions (AEB). Once these EMARSS aircraft reach the INSCOM AEBs, they will join a vastly heterogeneous fleet of aging programs of records –such as the Guardrail and Airborne Reconnaissance Low aircraft- and various quick-reaction capability (QRC) platforms.

The Army requested the funding for these aircraft despite the fact that there is no procurement funding in the future years defense program to purchase any more EMARSS aircraft. Moreover, the Army asked to complete and retain these aircraft despite the fact that this committee signaled its clear intent - both through cuts to the EMARSS program and through report language on the MC-12W Project Liberty program in the Senate report accompanying S. 1235 (S. Rept. 112-26), the National Defense Authorization Act for Fiscal Year 2012 - that the committee would not support procuring a second, separate fleet of C-12-based manned airborne intelligence, surveillance, and reconnaissance (ISR) platforms.

The committee does not recommend denying the requested funds, in part because the Air Force was allowed to send the Liberty fleet to Air National Guard units and to man those units to support the deployment of enough aircraft to sustain only two combat air patrols, which are expected to be allocated to Special Operations Command support. The committee also believes that the new Army G-2 needs time to assess all of the airborne ISR programs and assets that the Army has accumulated and to chart a course looking ahead to the drawdown in Afghanistan.

At the same time, the committee emphasizes its growing concerns about the state of the Army's manned airborne ISR portfolio. The wide mixture of manned airborne ISR platforms and sensors described above reflects the adaptation of Army Military Intelligence to the dynamic demands of the battlefield after 11 years of war. With soldiers gradually returning from the battlefield and with mounting pressure to decrease defense spending, now is the time for the Army to rationalize this fleet rather than to keep adding to it with low numbers of diverse aircraft.

The committee directs the Army G-2, the Army G-8, and the Assistant Secretary of the Army for Acquisition, Logistics, and Technology to develop a plan for Army manned airborne ISR platforms. This plan should address the following questions:

- What requirements for manned airborne ISR support to Army general purpose forces can be met with shared assets from other services;
- What requirements for manned airborne ISR support to Army general purpose forces need to be met organically;
- Given the set of requirements that need to be met organically, what existing QRC systems need to become programs of record;
- Which current programs of record need to be modernized or eliminated; and
- How will the Army resource these platform choices?

The committee directs the Army to provide this plan to the congressional defense and intelligence committees in conjunction with the submission of the budget request for fiscal year 2014.

The committee expects the Army to consult with the committee as this plan is crafted. If requirements change or if assumptions about the level of support available from other services change, the committee would like to be kept apprised.

Air Force Strategic Basing Process

In Senate report accompanying S. 1253 (S. Rept. 112-26) of the National Defense Authorization Act for Fiscal Year 2012, the committee directed the Air Force to consider the evaluation of relative flying operation costs for each candidate base during its strategic basing process. The committee commends recent efforts made by the Air Force to do so through the creation of the Air Refueling Received Demand Model. The model accounts for refueling demand from lower priority missions, such as the movement of air show assets, during recent years.

The committee is concerned, however, that the new model excludes evaluation of the demand for the highest priority activities as determined by the Joint Chiefs of Staff, including events where the aircraft departs from and returns to its home station. The air refueling demand for Priority 1 and Priority 2 sorties includes wartime and counterdrug missions, missions directed by the President, the Secretary of Defense, or combatant commanders, Coronet missions, and the deployment of assets in support of homeland defense. In total, these events account for 16 percent of the total operational demand for air refueling platforms.

Therefore, the committee directs the Secretary of the Air Force to report to Congress no later than 90 days after enactment of this Act, on how the demand for all refueling events in which the aircraft departs from and returns to home station, regardless of the events' relative Joint Chiefs of Staff Mission Priority, will be accounted for in the Air Refueling Receiver Demand Model in the strategic basing process and future basing decisions. The committee further encourages the Air Force to assign greater value to the demand for highpriority missions, as established by the Joint Chiefs of Staff, in the model.

Modernizing the Aging Fleet

The committee notes that the Department of Defense's new strategic guidance, and future-years defense program, place increased demand on legacy Air Force platforms to counter contemporary threats and meet global mission requirements. These aging aircraft fleets, many of which were procured decades ago, are extremely expensive to maintain and lack dedicated technology insertion programs to replace outdated materials, product forms, and parts that dramatically increase operation and maintenance (O&M) costs and limit mission availability.

The committee is aware that commercial aircraft fleets have employed structural aluminum alloys, advanced manufacturing processes, and joining technologies. The committee believes that the low-risk transition of these proven commercial technologies, products, and best practices could help the Air Force to increase mission availability and reduce O&M costs for the aging fleet. The committee encourages the Air Force to leverage commercially developed and proven technologies and products within its modernization and sustainment activities in order to increase mission availability, reduce total ownership costs, and resolve supply chain issues.

Space-Available Travel

The committee notes that the purpose of no-cost, spaceavailable travel on military aircraft is to assist military members and their families in responding to emergent personal circumstances and arduous duty conditions and to provide a means of respite from the rigors of active duty for military families, of both the active and reserve components. The option to seek space-available travel has also been offered, at a lower priority, to military retirees in recognition of their careers of service and to authorized members of the Selected Reserve. While the committee supports expanding the eligibility for space-available travel, doing so should not adversely affect the ability of military personnel to travel, for example, on emergency leave or on environmental and morale leave from remote duty locations. Expansion must also avoid placing additional costs and burdens on the personnel and facilities of the Air Mobility Command and the military services.

Expansion of the space-available benefit should also be preceded by the dissemination of accurate information about the hardships aspiring space-available travelers are likely to experience. The Department noted in its December 2007 report to Congress on space-available travel that "current eligible Space- A travelers often experience disillusionment because of the contrast between the perceived promises of Space-A travel as a benefit of military service and the reality of arduous conditions often encountered when using the system." The committee believes that the Department should do more to educate potential travelers on these realities and implement policies that will continue to ensure safe and acceptable conditions for eligible space-available travelers.

Impacts of "Sequestration" on the Department of Defense

The committee is aware that the Department of Defense is subject to automatic funding reductions known as "sequestration" of \$492.0 billion between 2013 and 2021 as required by section 251A of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901a). These reductions are in addition to reductions of \$487.0 billion already being implemented by the Department of Defense.

The leaders of the Department of Defense have consistently testified that automatic reductions would have a detrimental impact on the Department's ability to maintain readiness.

Secretary of Defense Leon Panetta said that these reductions would "inflict severe damage to our national defense for generations" and Chief Staff of the Army, General Raymond Odierno, warned that the cuts would force the Army to separate an additional 100,000 soldiers. Sequestration will also have a detrimental effect on the industrial base that supports the Department of Defense.

Therefore, the committee directs that the Secretary of Defense submit to the congressional defense committees no later than August 15, 2012 a detailed report on the impact of the sequestration of funds authorized and appropriated for fiscal year 2013 for the Department of Defense. The report should include an

assessment of the potential impact of sequestration on the readiness of the Armed Forces, on the ability of the Department to carry out the National Military Strategy, and any changes to the most recent Chairman's Risk Assessment.

The committee is also aware that automatically triggered cuts would disrupt programs, projects, and activities across the military departments and components, potentially causing the termination or restructuring of hundreds of contracts. Therefore, the report should include an estimate of the number and value of all contracts that will be terminated or re-scoped due to sequestration, including an estimate of the resulting costs. Finally, the report should include an estimate of the number of civilian, contract, and uniformed personnel whose employment would be terminated due to sequestration.

The committee urges the administration and Congress to work together, beginning immediately, to develop and introduce in both Houses of Congress not later than September 15, 2012, a proposal to replace the automatically triggered, across-the-board reductions in fiscal year 2013 funding required by sequestration, in order to avoid the devastating consequences of continued inaction.

Weapons of Mass Destruction - Civil Support Teams

The committee notes that section 1403 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (P.L. 107-314), authorized a total of 55 WMD-CSTs, with a requirement for at least one team in each State and territory. The Department of Defense established the 55 WMD-CSTs and certified each one, as required in section 12310(c)(5) of title 10, United States Code.

Section 1082 of the National Defense Authorization Act for Fiscal Year 2008 (P.L. 110-181) required the Secretary of Defense to establish an advisory panel to carry out an assessment of the capabilities of the Department of Defense to provide support to civil authorities in the event of a chemical, biological, radiological, nuclear, or high-yield explosive event.

Section 1034 of the National Defense Authorization Act for Fiscal Year 2010 (P.L. 111-84) required the advisory panel to assess and make recommendations on whether there should be any additional WMD-CSTs beyond the 55 already authorized and, if so, how many more and where they should be located.

Prior to the September 15, 2010, report of the advisory panel, "*Report of the Advisory Panel on Department of Defense Capabilities for Support of Civil Authorities After Certain Incidents*," the Department of Defense, using funds appropriated by Congress, established two additional WMD-CSTs beyond the 55 authorized, one in New York and one in Florida. In its report, the advisory panel concluded that the number of WMD-CSTs, including the 55 certified Civil Support Teams (CST) and the two new (as yet uncertified) CSTs in New York and Florida, was adequate, and recommended that the Secretary "neither authorize more Civil Support Teams nor change their locations at this time."

The Department of Defense certified the new CST in New York on November 29, 2010, and certified the new CST in Florida on November 4, 2011.

The committee is disappointed that the Department established two additional CSTs that had not been authorized, but— given the advisory panel's conclusion that the 57 CSTs are the adequate number and in the correct locations, and that the two new CSTs have been certified — the committee believes their authorization is warranted. However, in order to prevent the creation of future unauthorized CSTs, the committee has included the prohibition on establishing additional CSTs, beyond the 57 that would be authorized in the provision, unless they are specifically authorized in law.

National Commission on the Structure of the Air Force

The committee recommends a provision that would create a commission to study the appropriate makeup of the Air Force, considering that the Department of the Air Force draws upon active-duty forces, the Air Force Reserve, and the Air National Guard.

Included in the budget request was a plan by the Air Force to retire or realign various aviation units, and to cut 9.9 thousand personnel from the rolls, including 3.9 thousand active duty personnel, 5.1 thousand from the Air National Guard and 0.9 thousand from the Air Force Reserve. These changes represent a percentage reduction of 1.2 percent, 4.8 percent, and 1.3 percent, respectively, of force structure for each component.

The committee believes that there is little justification for the relative imbalance in the cuts applied to the Air National Guard. The Air Force and the Department of Defense have been negotiating potential compromise outcomes that would change the relative distribution of aircraft and personnel, but those negotiations have as yet been unproductive. Since the Air Force proposes to implement many of the planned moves in fiscal year 2013, the committee feels it must take action now to delay those actions that would be difficult or impossible to reverse, and instead place the Air Force's judgment on appropriate force structure mixes under the scrutiny of a national commission.

The commission would be made up of four members appointed by leadership of the Committees on Armed Services of the Senate and the House of Representatives and four members appointed by the President. The commission, in considering possible force structure adjustments, would be directed to identify a structure that:

- (1) meets current and anticipated requirements of the combatant commands;
- (2) achieves an appropriate balance between the regular and reserve components of the Air Force, taking advantage of the unique strengths and capabilities of each;
- (3) ensures that the reserve components of the Air Force have the capacity needed to support current and anticipated homeland defense and disaster assistance missions in the United States;
- (4) provides for sufficient numbers of regular members of the Air Force to provide a base of trained personnel from which the personnel of the reserve components of the Air Force could be recruited;
- (5) maintains a peacetime rotation force to avoid exceeding operational tempo goals of 1:2 for regular members of the Air Forces and 1:5 for members of the reserve components of the Air Force; and
- (6) maximizes achievable costs savings.

The commission would be required to produce a report not later than March 31, 2013.

The provision would also prevent the Air Force from using any fiscal year 2013 funds to divest, retire, or transfer, or prepare to divest, retire, or transfer, any aircraft of the Air Force assigned to units of the Air National Guard or Air Force Reserve as of May 31, 2012.

The provision would allow an exception for the Secretary of the Air Force to divest or retire, or prepare to divest or retire, C-5A aircraft, if the Secretary were to replace that aircraft through a transfer of C-5B, C-5M, or C-17 aircraft so as to maintain all Air National Guard and Air Force Reserve units impacted by such divestment or retirement at current or higher assigned manpower levels to operate the transferred aircraft.

The provision also includes authorization of an additional \$1.4 billion for the purpose of freezing Air Force structure in place or as planned in order to reserve decision space for the National Commission.

The amount of this additional authorization of appropriations is based on a rough estimate by the Department of the Air Force of the cost required to carry out this section. The committee expects that a review and analysis of the actions required to carry out this section may result in a cost to the Air Force that differs from the additional authorization of appropriation. The committee expects to be promptly notified once the Air Force determines the total cost to carry out this provision.

The Air Force budget request for fiscal year 2013 assumed roughly \$1.4 billion in savings that derived from retiring several systems, cutting the numbers of systems that remain, and realigning systems between the active and reserve components.

The committee completely understands that the Air Force had to make tough choices in the budget. However, many of the choices the Air Force made are puzzling, and almost all are lacking sufficient analysis to support the conclusions in the budget. Some actually fly in the face of what the Air Force asserted just within the past couple of years. For example, a very troubling aspect of the budget proposal is that, within these force structure changes, the cuts in manpower and aircraft would fall disproportionately on the Air National Guard. In the fighter forces, the Air Force is planning for a cut of almost one third in the A-10 force, with that cut weighted heavily toward the Air National Guard. Original data provided by the Air Force showed that, simultaneously with making these cuts in A-10 force structure, the Air Force was planning to increase the size of the active-duty A-10 training squadrons.

In tactical airlift programs, the Air Force had established a requirement, validated by the Joint Requirements Oversight Council, for 38 C-27 aircraft to provide direct support to Army ground forces. All of those aircraft were slated to go to the Guard. The committee observes that the Air Force joined what was a joint program

with the Army, and then took sole ownership of it. Air Force officials testified that they needed to pursue the C-27 because the C-130 could not meet requirements. Now, the Air Force has reversed course, and claims that the C-130 is adequate for meeting the direct support mission for the Army.

The committee believes that changing of Air Force force structure is too important to be approached with such a lack of rationale, unsupported by objective analysis. The committee has recommended two steps to improve this situation. For the near term, the committee is recommending creation of a National Commission on the Structure of the Air Force that would report recommendations next year on this matter. Elsewhere, for the longer term, the committee is recommending a provision that would direct the Comptroller General to develop recommendations for objective criteria to be used by the Department of Defense to make decisions relating to realignments of units employed at military installations that are not currently covered by section 2687 of title 10, United States Code.

The committee is concerned that, in an effort to realign its force structure, valuable and necessary coordination between the Air Force, Army, and National Guard regarding the Air Force's fiscal year 2013 force structure modifications were overlooked. In addition, the committee is concerned that the Secretary of the Air Force has failed to provide accurate analysis on the effects of the Air Force modifications decision. Earlier this year, the Secretary of the Air Force sent a letter to committee members in an attempt to justify the Air Force's fiscal year 2013 force structure modifications that result in the reallocation of Air Force Reserve and Air National Guard units. However, the numbers provided in the Secretary's letter are vastly different from numbers received and coordinated between Air Force and Army personnel on-site at locations being affected.

Therefore, the committee strongly urges the Secretary of the Air Force suspend all force structure adjustments until October, 1, 2013, to allow the committee to review the recommendations of the National Commission on the Structure of the Air Force as they pertain to: (1) fielding of integrated joint training, command and control, and essential capabilities; and (2) current and anticipated requirements that support current defense strategy.

Authorized Cost and Scope Variations

The committee is extremely concerned by recent discoveries that contracts for the construction of Department of Defense (DOD) facilities resulted in military construction projects that exceeded the scope of work authorized by Congress. The committee was notified on April 30, 2012, that nine Army National Guard projects in various states of construction would result in facilities that will exceed the size specifically authorized by Congress in past National Defense Authorization Acts. Army National Guard representatives attributed the violations to "human error" and requested immediate legislative action to authorize the higher scope in order to preclude delays to the construction of the facilities.

In addition, the Inspector General of the Department of Defense (DODIG) released a report on February 27, 2012, titled "Guidance Needed to Prevent Military Construction Projects From Exceeding the Approved Scope of Work (Report No. DODIG-2012- 057)" which found that the design process for three military construction projects did not result in U.S. Army Corps of Engineers and Air Force Center for Engineering and the Environment (AFCEE) officials constructing facilities in accordance with facility sizes on the congressional request for authorization. Additionally, AFCEE officials improperly authorized the construction of facilities for one project, because they did not conduct scope verifications and perform proper contract administration. As a result, AFCEE officials improperly authorized the expenditure of at least \$3.3 million.

The DODIG concluded that "this occurred because the scope of work variations permissible by section 2853, title 10, United States Code, from the congressional request for authorization are unclear and inconsistently applied." As a result, Department of Defense officials do not have assurances that military construction projects are built consistent with congressional intent and in accordance with legislative requirements.

The committee expects that the Department of Defense has guidance and regulations in place to ensure compliance with military construction statutes and to ensure hundreds of military construction projects authorized each year are carried out consistent with congressional intent. Therefore, the committee directs the Secretary of Defense to incorporate the clarifications of section 2853 imposed by this provision into current Department regulations and to provide a report to the congressional defense committees not later than March 1, 2013, describing clear, concise, and comprehensive guidance and processes established with the Department to preclude any human errors from resulting in a violation of law.