



National Guard Bureau Office of Legislative Liaison



FY2013 National Defense Authorization Act

*Analysis of H.R. 4310 & S. 2467, the National Defense Authorization
Act for Fiscal Year 2013.*

As of 11 April 2012

Bills Status

	Passed in Committee	Passed in Chamber	Agreement	Final Passage	Signed into Law
House H.R. 4310					
Senate S. 2467					

<http://www.ng.mil/ll>

Table of Contents

EXECUTIVE SUMMARY	- 1 -
ARMY NATIONAL GUARD.....	- 2 -
AIR NATIONAL GUARD.....	- 2 -
PROCUREMENT	- 3 -
MILITARY PERSONNEL POLICY	- 4 -
COMPENSATION AND OTHER BENEFITS.....	- 4 -
HEALTH CARE.....	- 4 -
GENERAL PROVISIONS.....	- 5 -
OTHER AUTHORIZATIONS	- 5 -
HOUSE REPORT LANGUAGE.....	- 5 -

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/)

STATUS

The House Armed Services Committee has started work on H.R. 4310, the Fiscal Year 2013 National Defense Authorization Act. During the week of 23 April, the House Subcommittees marked their sections of the bill. The full Committee is expected to take up the bill on 9 May.

The Senate Armed Services Committee is scheduled to work on the bill during the week of 21 May. The full schedule is below:

- 5/22, 0930 - SASC-Seapower
- 5/22, 1100 - SASC-Readiness
- 5/22, 1400 - SASC-Emerging Threats
- 5/22, 1530 - SASC-Airland
- 5/22, 1700 - SASC-Personnel
- 5/23-25 – Full SASC

The House Subcommittee marks include a number of National Guard related provisions. Of note, the marks include a significant number of provisions related to the Air National Guard including:

- Preventing the retirement of C-27 aircraft;
- Limiting the future retirement of C-130 aircraft;
- Preventing the disestablishment of two Aerospace Control Alert locations;
- Increasing ANG End Strength, Active Guard and Reserve personnel, and Dual Status Technicians.

The marks also authorize \$500 million for the National Guard and Reserve Equipment Account.

A detailed analysis can be found below.

Army National Guard

Authorization of Funding

(All Dollars in Thousands)

Army National Guard	President's FY13 Budget Request	HASC Mark	Delta from PB	SASC Mark	Delta from PB	Conference Report	FY13 Delta from PB
O&M*	\$7,108,612	\$7,068,012	-\$40,600				
OCO O&M*	\$382,448	\$382,448	\$0				
MILCON*	\$613,799	\$613,799	\$0				

Army National Guard End Strength

Army National Guard	President's FY12 Budget Request	HASC Mark	Delta from PB	SASC Mark	Delta from PB	Conference Report	FY13 Delta from PB
End Strength	358,200	358,200	0				
AGR	32,060	32,060	0				
Dual Status Technicians	28,380	27,210	-1,170				
Non-Dual Status Technicians	1,600	1,600	0				
ADOS	17,000	17,000	0				

Air National Guard

Authorization of Funding

(All Dollars in Thousands)

Air National Guard	President's FY12 Budget Request	HASC Mark	Delta from PB	SASC Mark	Delta from PB	Conference Report	FY13 Delta from PB
O&M*	\$6,015,455	\$6,196,903	+\$181,448				
OCO O&M*	\$19,975	\$19,975	\$0				
MILCON*	\$42,386	\$42,386	\$0				

Air National Guard End Strength

Air National Guard	President's FY12 Budget Request	HASC Mark	Delta from PB	SASC Mark	Delta from PB	Conference Report	FY12 Delta from PB
End Strength	101,600	103,376	+1,776				
AGR	14,305	14,542	+237				
Dual Status Technicians	21,101	21,561	+460				
Non-Dual Status Technicians	350	350	0				
ADOS	16,000	16,000	0				

Procurement

Reduction of Strategic Airlift Requirement: The House bill would temporarily reduce the number of strategic airlift airframes that must be maintained by the Air Force from 301 to 275 for Fiscal Year 2013. The bill would also require that all retired C-5A aircraft are stored in flyable condition, can be returned to service, and are not used to supply parts. The bill would also require a report from the TRANSCOM Commander assessing the operational risk for meeting the geographical combatant commanders' airlift requirements with a fleet of less than 301 inter-theater airlift aircraft (Sec. 118). The Fiscal Year 2012 NDAA included a provision that lowered the number of strategic airlift airframes from 316 to 301.

Reports on Airlift Requirements of the Army: The House bill would requires the Secretary of the Army to provide an 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 why Air Force aircraft were not utilized to support the mission (Sec. 122).

Retirement of C-130 Aircraft: The House bill would permit the Secretary of the Air Force to retire no more than 41 C-130 airlift aircraft after fiscal year 2013 (Sec. 132).

Limitation on the Availability of Funds for Divestment or Retirement of C-27J Aircraft: The House bill would prevent the Secretary of the Air Force from divesting or retiring C-27J aircraft from the Air Force's inventory during fiscal year 2013 and until 180 days after the date on which the Secretary of the Air Force submits the report required by section 112 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112-81), and the Director of the Congressional Budget Office (CBO) submits to the congressional defense committees a life-cycle cost analysis of C-27J aircraft, C-130H aircraft, and C-130J aircraft. This section would also require the Director to conduct the analysis, which would take into account all upgrades and modifications required to sustain the aircraft through a 40-year service-life. The Director would also provide its assessment of the most cost effective and mission-effective options for which C-27J aircraft could be affordably fielded by the Air National Guard with regard to the number of basing locations, the number of authorized personnel associated with a unit's manning document, and the maintenance and sustainment strategy. The cost-analysis would also outline any limiting factors regarding the assessment of the C-27J aircraft cost data as it relates to deriving cost ground rules and assumptions, and actual data derived from costs incurred for currently fielded aircraft. The Department of Defense would also be required to provide to the Director of the Congressional Budget Office all requested and all original source documentation needed to conduct the life-cycle cost analyses in a prompt and timely manner (Sec. 135).

Limitation on Availability of Funds for Termination of C-130 AMP: The House bill would prevent the Secretary of the Air Force from terminating the C-130 Avionics Modernization Program (AMP) until 180 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. 136).

Limitation on Availability of Funds for Disestablishment of the ACA locations: This section would limit the funds authorized to be appropriated to disestablish 2 of the 18 Aerospace Control Alert locations. This section would also establish a consolidated budget exhibit for the Aerospace Control Alert mission. This section would require the Secretary of Defense to submit a report to the congressional defense committees that provides a cost-benefit analysis and a risk-based assessment of Aerospace Control Alert mission; and then have the Comptroller General of the United States assess the Secretary's report (Sec. 352).

Military Personnel Policy

Codification of Staff Assistant Position for Joint Staff Related to National Guard and Reserve Matters: The House bill would codify in title 10, the Staff Assistant position on the Joint Staff related to National Guard and Reserve Matters (Sec. 511).

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

Additional Behavioral Health Professional to Conduct Pre-Separation Medical Exams for PTSD: The House bill would enlarge the pool of behavioral health professionals that are authorized to conduct pre-separation medical exams for Post-Traumatic Stress Disorder to include psychiatrists, licensed clinical social workers, and psychiatric nurse practitioners (Sec. 522).

Sense of Congress Regarding Support for Yellow Ribbon Day: The House bill would express the sense of Congress supporting the goal and ideals of Yellow Ribbon Day in honor of members of the Armed Forces serving overseas (Sec. 566).

Compensation and Other Benefits

No Reduction in BAH for National Guard members Transitioning Between Active Duty and Full-Time National Guard Duty: The House bill would prevent reductions of basic allowance for housing for National Guard service members who transition from full-time National Guard Duty to Active Duty, or from Active Duty to full-time National Guard Duty, when the transition occurs without a break in active service (Sec. 603).

Modification in Program Guidance for PDMRA: The House bill would grandfather members of the Reserve Components mobilized under wartime or national emergency circumstances prior to 1 October 2011, from the policy changes implemented on that date related to the award of PDMRA (Sec. 604).

One-year Extension of Certain Expiring Bonus and Special Pay Authorities: The House bill 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; inactive duty travel pay; and health professions loan repayment program (Sec. 611).

Increase in Maximum Amount of Officer Affiliation Bonus for Officers in the Selected Reserve: The House bill would increase 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).

Health Care

Extension of TRICARE Standard and TRICARE Dental for Members of the Selected Reserve Who are Involuntarily Separated: The House bill would preserve 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. 702).

Medical and Dental Care Contracts for Certain Members of the National Guard: This section would require the Secretary of Defense to ensure that members of the National Guard and the Reserves who receive medical and dental care under contracts by the National Guard or State meet medical and dental readiness standards upon mobilization (Sec. 703).

General Provisions

Extension of Authority for the CNGB to Establish and Operate Counterdrug Schools: The House bill would authorize the Chief of the National Guard Bureau 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 (Sec. 1011).

Other Authorizations

Drug Interdiction and Counter Drug: The House bill would authorize \$999,363,000* for drug interdiction and counter drug activities of the Department of Defense (Sec. 1401).

House Report Language

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.

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.

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.

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.

***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**