



National Guard Bureau
Office of Legislative Liaison



FY20 Senate National Defense Authorization Act (NDAA)



Summary of S. 1790 The National Defense Authorization Act for Fiscal Year 2020



As of June 18th, 2019

	Passed in Committee	Passed in Chamber	Agreement	Final Passage	Signed into Law
House	June 13 th , 2019				
Senate	May 23 rd , 2019				

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Executive Summary

This guide provides a short summary of the Senate Armed Services Fiscal Year 2020 National Defense Authorization Act (NDAA).

To obtain a complete understanding of any particular provision, users are encouraged to review the actual bill text. Bill text and the committee report can be found on NGB-LL's website: www.nationalguard.mil/ll. Beyond the legislative provisions, there are a number of directive reports with specific relevance to the National Guard. Readers are encouraged to review this report language (starting on page 9) for their own situational awareness.

Status:

On June 13th, the House Armed Services Committee passed the FY2020 National Defense Authorization Act. The bill authorizes \$733 billion in discretionary spending, including \$69 billion for overseas operations. The funding authorization is at the levels set by the 2018 Budget Agreement.

Highlights:

- Establishes two new Defense Environmental Restoration Accounts for the ARNG and the ANG (Sec. 319)
- Prohibits the mandatory conversion of Dual Status Technicians to AGR. (Sec. 319)
- Authorizes an end strength of 336,000 for ARNG and 107,700 for ANG. (Sec. 411)
- Continues to support Dual Status Technician to AGR transition. (Sec. 412/413)
- Extends a number of Reserve related bonuses and incentive pays (Sec. 611)
- Grants CNGB the authority to inspect units and members of the National Guard to ensure compliance with Federal law and policy (Sec. 1036)
- Authorizes the President to withdraw Federal recognition of NG units and members for failure to comply with Federal law and policy (Sec. 1037)
- Authorizes the President to bar units and individuals from receiving Federal funds if the unit or individuals fail to comply with Federal law and policy (Sec. 1037)
- Requires CNGB to designate a property and fiscal officer for each state and territory (Sec. 1038)
- Creation of a Space Force (Sec. 1601-1608)
- A Sense of Congress that National Guard members should be able to concurrently use their Montgomery G.I. Bill and Department of Defense-funded tuition assistance (Report Language)

National Guard Accounts Overview

RECOMMENDED FUNDING AUTHORIZATIONS DO NOT EQUAL FINAL FUNDING. FINAL FUNDING LEVELS WILL BE DECIDED BY APPROPRIATIONS BILLS



Army National Guard - Authorization of Funding (All Dollars in Thousands)

Army National Guard	FY20 PB Request	HASC Mark	Delta from PB	SASC Mark	Delta from PB	Conference Report	FY20 Delta from PB
O&M	\$7,629,403	\$7,474,003	-\$155,400	\$7,633,603	+\$4,200		
OCO O&M	\$83,291	\$83,291	-	\$83,291	-		
MILCON	\$210,819	\$365,819	+\$155,000	\$365,819	+\$155,000		

Army National Guard End Strength

Army National Guard	FY20 PB Request	HASC Mark	Delta from PB	SASC Mark	Delta from PB	Conference Report	FY20 Delta from PB
End Strength	336,000	336,000	-	336,000	-		
AGR	30,595	30,595	-	30,595	-		
Dual Status Technicians	22,294	22,294	-	22,294	-		
ADOS	17,000	17,000	-	17,000	-		



Air National Guard - Authorization of Funding (All Dollars in Thousands)

Air National Guard	FY20 PB Request	HASC Mark	Delta from PB	SASC Mark	Delta from PB	Conference Report	FY20 Delta from PB
O&M	\$6,727,229	\$6,596,662	-\$130,567	\$6,727,229	-		
OCO O&M	\$176,909	\$176,909	-	\$176,909	-		
MILCON	\$165,971	\$172,971	+\$7,000	\$172,971	+\$7,000		

Air National Guard End Strength

Air National Guard	FY20 PB Request	HASC Mark	Delta from PB	SASC Mark	Delta from PB	Conference Report	FY20 Delta from PB
End Strength	107,700	107,700	-	107,700	-		
AGR	22,637	22,637	-	22,637	-		
Dual Status Technicians	13,573	13,573	-	13,573	-		
ADOS	16,000	16,000	-	16,000	-		

BILL TEXT

PROCUREMENT PROVISIONS

Sec. 141. Requirement to align Air Force fighter force structure with National Defense Strategy and reports.

This section would require the Secretary of the Air Force to align the fighter force structure acquisition strategy with the results of the independent studies required by section 1064 of the National Defense Authorization Act for Fiscal Year 2018 and to transmit the new strategy in a report to the congressional defense committees.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION PROVISIONS

Sec. 232. Cyber Science and Technology Activities Roadmap and Reports

This section would direct the Under Secretary of Defense for Research and Engineering to develop a roadmap for the science and technology activities of the Department of Defense in support of the Department's cyber needs and missions.

OPERATION AND MAINTENANCE PROVISIONS

Sec. 316. Prohibition on use of perfluoroalkyl substances and polyfluoroalkyl substances for land-based applications of firefighting foam.

This section would prohibit the Department of Defense from procuring firefighting foam that contains perfluoroalkyl and polyfluoroalkyl substances after October 1, 2022.

Sec. 318. Cooperative agreements with States to address contamination by perfluoroalkyl and polyfluoroalkyl substances.

This section would encourage the Secretary of Defense to work expeditiously to finalize a cooperative agreement upon request from the governor of a State if there is suspected contamination from perfluoroalkyl and polyfluoroalkyl substances. If an agreement is not finalized or amended within 1 year, the Secretary of Defense is required to submit a report to the appropriate congressional committees.

Sec. 319. Modification of Department of Defense environmental restoration authorities to include Federal Government facilities used by National Guard.

This section would establish environmental restoration accounts for the Army National Guard and the Air National Guard.

Sec. 356. Prohibition on subjective upgrades by commanders of unit ratings in monthly readiness reporting on military units.

The section would prohibit the commander of a military unit who is responsible for monthly reporting of readiness from making any subjective upgrade of the overall rating of the unit.

MILITARY PERSONNEL AUTHORIZATIONS

Sec. 411. End strengths for Selected Reserve.

The section would authorize the following end strengths for Selected Reserve personnel, including the end strength for Reserves on Active Duty in support of the Reserves, as of September 30, 2020:

Army National Guard— 336,000

Sec. 413. End strengths for military technicians (dual status).

This section would prohibit under any circumstances the coercion of a military technician (dual status) by a State into accepting an offer of realignment or conversion to any other military status, including as a member of the Active, Guard, and Reserve program of a reserve component. The provision would further specify that if a technician declines to participate in such a realignment or conversion, no further action may be taken against the individual or the individual's position. The provision would require the Chief of the National Guard Bureau to certify by January 1, 2020, to the Committees on Armed Services of the Senate and House of Representatives the number of positions realigned from military technician (dual status) to a position in the Active, Guard, and Reserve (AGR) program of the Air National Guard during fiscal year 2019. Finally, the provision would specify that if the number so certified is less than 3,190, that the authorized strength for Air National Guard military technicians be increased by the difference between the number certified and 3,190 (with a maximum increase of 2,292) and that authorized AGR strength for the Air National Guard be decreased by that same amount.

OFFICER PERSONNEL POLICY

Sec. 501. Repeal of codified specification of authorized strengths of certain commissioned officers on active duty

The section would require the Congress to authorize annually the number of officers serving on Active Duty in the grades of major, lieutenant colonel, and colonel in the Army, Air Force, and Marine Corps or lieutenant commander, commander, and captain in the Navy.

Sec. 502. Maker of original appointments in a regular or reserve component of commissioned officers previously subject to original appointment in other type of component.

The section would require the Secretary of Defense to make regular officer transfer appointments onto the Active Duty list for reserve officers currently included on the reserve active-status list.

Sec. 504. Limitation on number of officers recommendable for promotion by promotion selection boards.

This section would amend limit the number of officers who may be recommended for promotion by a promotion selection board to no more than 95 percent of officers who are in a given promotion zone. The provision would also require the Secretary of Defense to make reserve officer transfer appointments onto the reserve active-status list for regular officers currently included on the Active Duty list. Additionally, the section would also deems an officer who receives an original appointment as a regular commissioned officer in a grade under section 531 of title 10, United States Code, to have also received an original appointment as a reserve officer.

RESERVE COMPONENT MANAGEMENT PROVISIONS

Sec. 511. Repeal of requirement for review of certain Army Reserve officer unit vacancy promotions by commanders of associated active duty units.

This section would repeal section 1113 of the Army National Guard Combat Readiness Reform Act of 1992, which was included in the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484). This section required the review of a recommended unit vacancy promotion of an officer in the Selected Reserve by the commander of the Active-Duty unit associated with the Selected Reserve unit of that officer.

GENERAL SERVICE AUTHORITIES

Sec. 515. Modification of authorities on management of deployments of members of the Armed Forces and related unit operating and personnel tempo matters.

The section would limit the ability of the Secretary of Defense to delegate deployment threshold exceptions to Senate-confirmed civilian officials within the Department of Defense. The provision would also require the Secretary of Defense to prescribe a separate policy to track dwell time for reserve members of the Armed Forces.

Sec. 516. Repeal of requirement that parental leave be taken in one increment.

The section would remove the requirement that military leave taken in connection with the birth or adoption of a child be taken only in one increment.

MEMBER EDUCATION, TRAINING, TRANSITION, AND RESILIENCE

Sec. 566. Consecutive service of service obligation in connection with payment of tuition for off-duty training or education for commissioned officers of the Armed Forces with any other service obligations.

This section would require that an Active Duty service obligation incurred by an officer for the acceptance of tuition assistance for off-duty training or education be served sequentially with any other service obligation already incurred by the officer.

COMPENSATION, PERSONNEL BENEFITS AND RETIREMENT

Sec. 611. One-year extension of certain expiring bonus and special pay authorities.

The committee recommends a provision that would extend, through December 31, 2020, various expiring bonus and special pay authorities for military personnel. The provision would extend special pay and bonus authority for reserve personnel, military healthcare professionals, and nuclear officers and consolidated pay authorities for officer and enlisted personnel. The provision would also extend the authority to provide temporary increases in the rate of Basic Allowance for Housing in certain circumstances.

DISABILITY PAY, RETIRED PAY, AND SURVIVOR BENEFITS

Sec. 631. Contributions to Department of Defense Military Retirement Fund based on pay costs per Armed Force rather than on Armed Forces-wide basis.

This section would require the Secretary of Defense to make contributions to the Military Retirement Fund based on an actuarial calculation of each service's planned pension obligations, beginning with fiscal year 2021. Current law requires the DOD to develop a single contribution rate across the Department for all Active Duty personnel and a single rate for all reserve component personnel. The current system produces a disparity between the Services. Those services that have fewer personnel who reach full retirement eligibility contribute more to the Military Retirement Fund than needed to pay for their retired members pensions.

HEALTH CARE PROVISIONS

Sec. 702. TRICARE payment options for retirees and their dependents.

This section would require that a premium owed by a member, former member, or dependent, eligible for medical and dental care will be withheld, to the maximum extent practicable, from the

individual's retired, retainer, or equivalent pay. The provision would authorize the Secretary of Defense to determine the method and frequency of payment when circumstances prevent payment through an allotment from retired, retainer, or equivalent pay. The amendments in this provision would apply to health care coverage beginning on or after January 1, 2021.

DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

901. Headquarters activities of the Department of Defense matters.

The section would require the Secretary to report, not later than January 1, 2020, on the total number of civilian and military employees assigned or employed in the Office of the Chief, National Guard Bureau, and on the National Guard Joint Staff, together with a recommendation on the number of employees necessary to execute the missions and functions of the National Guard Bureau and National Guard Joint Staff.

MISCELLANEOUS AUTHORITIES AND LIMITATIONS

Sec. 1036. Modernization of inspection authorities applicable to the National Guard and extension of inspection authority to the Chief of the National Guard Bureau.

This section would authorize the Chief of the National Guard Bureau to conduct inspections to determine whether units and members of the National Guard comply with Federal law and policy applicable to the National Guard.

Sec. 1037. Enhancement of authorities on forfeiture of Federal benefits by the National Guard.

The section would state that the availability of Federal funds provided to the National Guard of individual States is contingent upon compliance with Federal law and policy applicable to the National Guard. The provision would authorize the President to withdraw Federal recognition of National Guard units and members for failure to comply with Federal law and policy and would authorize the President to bar units and individuals from receiving Federal funds if the unit or individuals fail to comply with Federal law and policy.

Sec. 1038. Modernization of authorities on property and fiscal officers of the National Guard.

The section would require the Chief of the National Guard Bureau, subject to the approval of the secretary of the military department concerned, to assign, designate, or detail property and fiscal officers for each State, each territory, and the District of Columbia.

TREATMENT OF CONTAMINATED WATER NEAR MILITARY INSTALLATIONS

Sec. 1075. Remediation plan.

This section would require the Secretary of Defense submit a remediation plan for cleanup of all water at or adjacent to military bases that is contaminated with PFOA or PFOS within 180 days of enactment.

SPACE ACTIVITIES

Sec. 1601-1608. United States Space Force

This section would establish the U.S. Space Force (USSF) and make changes to the organization of, authorities of, and acquisition associated with space forces assigned to the Department of Defense (DOD). The legislation further states the United States Space Force shall include other military and civilian personnel of the Air Force (including appropriate elements of the Air National Guard and the Air Force Reserve), and other infrastructure, assets, and resources of the Air Force, assigned to the Space Force by the Secretary of the Air Force.

CYBERSPACE-RELATED MATTERS

Sec. 1638. Accreditation standards and processes for cybersecurity and information technology products and services.

This section would require the Department of Defense (DOD) Chief Information Officer (CIO) to assess the accreditation standards and processes of the military departments and other components (to include the National Guard) of the DOD for cybersecurity and information technology products and services.

MILITARY CONSTRUCTION PROVISIONS

Sec. 2601. Authorized Army National Guard construction and land acquisition projects.

Army National Guard

State	Location	Amount
Alabama.....	Anniston Army Depot.....	\$34,000,000
	Foley.....	\$12,000,000
California.....	Camp Roberts.....	\$12,000,000
Idaho.....	Orchard Training Area.....	\$29,000,000
Maryland.....	Havre de Grace.....	\$12,000,000
Massachusetts....	Camp Edwards.....	\$9,700,000
Minnesota.....	New Ulm.....	\$11,200,000
Mississippi.....	Camp Shelby.....	\$8,100,000
Missouri.....	Springfield.....	\$12,000,000
Nebraska.....	Bellevue.....	\$29,000,000
New Hampshire...	Concord.....	\$5,950,000
New York.....	Jamaica Armory.....	\$91,000,000
Pennsylvania.....	Moon Township.....	\$23,000,000
Vermont.....	Camp Ethan Allen.....	\$30,000,000
Washington.....	Richland.....	\$11,400,000

Sec.2605. Authorized Air National Guard construction and land acquisition projects.

Air National Guard

State	Location	Amount
California.....	Moffett Air National Guard Base....	\$57,000,000
Georgia.....	Savannah/Hilton Head Airport.....	\$24,000,000
Missouri.....	Rosecrans Memorial Airport.....	\$9,500,000
Puerto Rico.....	Luis Munoz Marin Airport.....	\$50,000,000
Wisconsin.....	Truax Field ANG Base.....	\$34,000,000

Sec. 2905. Disaster recovery projects.

Army National Guard: Inside the United States

State	Location	Amount
Florida.....	Panama City.....	\$25,000,000
North Carolina	MTA Fort Fisher.....	\$25,000,000

OTHER MATTERS

Sec. 2823. Designation of Sumpter Smith Joint National Guard Base.

This section would designate the Sumpter Smith Air National Guard Base in Birmingham, Alabama, as the “Sumpter Smith Joint National Guard Base.”

COMMITTEE REPORT LANGUAGE

Concurrent use of Montgomery G.I. Bill and Department of Defense-funded tuition assistance

The benefits provided by the Montgomery G.I. Bill and Department of Defense-funded tuition assistance are valuable incentives that can help the military meet its recruiting and retention goals by providing financial means for servicemembers to complete college courses. The committee is aware that due to a Department of Defense (DOD) policy change to DOD Instruction 1322.25 in July 2014, reserve component members receiving tuition assistance are no longer allowed to receive Montgomery G.I. Bill—Selected Reserve (MGIB–SR) benefits for the same college course. The committee is aware that tuition assistance is paid directly to schools and is authorized only for tuition while the MGIB–SR benefits are paid directly to servicemembers and may be used to cover education-related costs such as books, fees, and housing. Therefore, the committee encourages the DOD to re-evaluate this policy and strongly consider reinstating simultaneous use of tuition assistance and MGIB–SR for reserve component members.

Development of strategic basing factors to support military families

The committee notes that on February 23, 2018, the Secretaries of the military departments sent a memorandum to the National Governors Association, expressing their intent to consider the quality of education in local schools and reciprocity of professional licensure for military spouses in future basing or mission alternative decisions. The committee applauds the Services for their efforts to address the needs of military families. Additionally, the committee salutes the Department of the Air Force for taking the lead in developing strategic basing factors to support military families while engaging community stakeholders for feedback relevant to K–12 education and military spouse license reciprocity. The committee encourages the Departments of the Army and Navy to work collaboratively with the Air Force on strategic basing factors to ensure military children receive a high quality education and to relieve military spouses of the burdens that come with re-licensure and recredentialing with every permanent change of station move.

Department of Defense disaster recovery

The committee is concerned about the impact of recent natural disasters on several of the Nation’s key military installations. Flooding damage at Offutt Air Force Base and the Nebraska National Guard’s Camp Ashland has put at risk essential missions, training, and taskings for highly valuable elements of Air Force’s intelligence, surveillance, and reconnaissance enterprise as well as highly critical components of the Army National Guard’s training regimen. Hurricane impacts to Tyndall Air Force Base, Marine Corps Base Camp Lejeune, and Marine Corps Air Station Cherry Point have threatened air dominance and amphibious assault training, affecting operational readiness at a time when the Services can little afford to lose this capability. Significant portions of

Offutt Air Force Base, Camp Ashland, Camp Lejeune, and Marine Corps Air Station Cherry Point were impacted, while 95 percent of the buildings at Tyndall Air Force Base were damaged or destroyed. The devastation at these facilities presents a serious challenge to the Department of Defense's installation management enterprise, and the committee believes that rebuilding these locations must be a priority for the Department and for the Congress.

The committee is committed to ensuring that the United States Strategic Command, the 55th Wing, and the Nebraska National Guard receive the necessary funding to return Offutt Air Force Base and Camp Ashland to full mission capability. Further, the committee remains unified in its belief that Tyndall Air Force Base, Camp Lejeune, and Marine Corps Air Station Cherry Point are vital to the Department's efforts to protect the Nation and realize the goals of the National Defense Strategy. Taken as a whole, the facilities, assets, and personnel at these bases are an essential element of the Department of Defense's ability to provide mission essential forces in support of national security objectives and remain critical to supporting the operational needs of combatant commanders. As such, the committee believes that full restoration of Offutt Air Force Base, Camp Ashland, Tyndall Air Force Base, Camp Lejeune, and Marine Corps Air Station Cherry Point are in the vital national security interest of the United States and supports efforts by the Air Force, Marine Corps, and Army National Guard to limit operational impact and restore those installations to meet and exceed their prior operational capacity.

Excess storage capacity at Army National Guard installations

The committee is aware that Department of Defense (DOD) facilities are able to maintain unique secure storage capabilities as well as have excess storage capacity that could also be used for public-private partnership opportunities. For example, the committee understands that Camp Navajo, Arizona, has significant excess capacity that could enable public-private partnerships to offer additional revenue to Camp Navajo, the Arizona National Guard, and the surrounding community. The committee recognizes the value that public-private partnerships between the DOD and appropriate non-profit or commercial entities would bring to the installation and encourages the Army to consider expanding these partnerships. Accordingly, the committee directs the Secretary of the Army to provide a briefing to the congressional defense committees, no later than November 1, 2019, outlining specific National Guard installations that have requested to use excess storage capacity for public private partnerships. The briefing should include general considerations that could impact any public-private storage agreements with non-DOD entities. Additionally, the briefing should include any land conveyances that may be required for any installations on a case-by-case basis.

Full time support manpower study

The committee directs the Secretary of Defense to conduct a manpower study of the full time support requirements of the Department of Defense to determine the proper allocation of military technicians (dual status), Active Guard and Reserve personnel, and Federal civilian employees employed under title 5, United States Code, under the supervision of State Adjutants General. The Secretary shall submit the results of this review to the Committees on Armed Services of the Senate and House of Representatives by no later than April 1, 2021.

Development and fielding of expeditionary energy technology in the Department of Defense

The committee acknowledges the significant logistical burden that fossil fuel generators place on expeditionary forces operating at home and abroad. Further, the committee understands the necessity of increasing agility in the future operating environment by reducing the logistical footprint required to sustain forces. Therefore, the committee encourages the Department of Defense to invest broadly in emerging technology to harness, integrate, and store energy from multiple energy sources to extend the operational reach of Active Duty, reserve, and National Guard forces.

Air Force Active Association

The committee supports the Air Force's Total Force Integration (TFI) concept to leverage the capabilities of both the Air Force Active Duty and its reserve components. The committee believes that Active Associations are an important component of TFI, providing the opportunity for Active-Duty pilots and personnel to access reserve component aircraft and train with reserve component pilots and maintenance personnel.

The committee remains concerned about the delayed deliveries of the KC-46A aerial refueling tanker and the impact it will have on the existing tanker fleet, most notably extending the service of KC-135 tankers. The committee is further concerned about the continued operation of legacy air refueling platforms and the impact on the Air Force's Active Associations. Therefore, the committee directs the Air Force and Air Mobility Command to notify the congressional defense committees regarding any plans to draw down Active Associations because KC-46A deliveries have been later than planned and, if there are such reductions, to provide a report on plans to restore these existing Active Associations to full strength.