

Congress of the United States

Washington, DC 20515

April 3, 2018

The Honorable Adam Smith
Chairman
House Armed Services Committee
2216 Rayburn House Office Building
Washington, DC 20515

The Honorable Mac Thornberry
Ranking Member
House Armed Services Committee
2216 Rayburn House Office Building
Washington, DC 20515

The Honorable Donald Norcross
Chairman
Subcommittee on Tactical Air and Land Forces
House Armed Services Committee
2216 Rayburn House Office Building
Washington, DC 20515

The Honorable Vicky Hartzler
Ranking Member
Subcommittee on Tactical Air and Land Forces
House Armed Services Committee
2216 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Smith, Ranking Member Thornberry, Chairman Norcross, and Ranking Member Hartzler:

As you begin deliberations on the National Defense Authorization Act (NDAA) for Fiscal Year 2020, we write to respectfully request that you include language to prohibit Air Force funds from being used to divest the RC-26B aircraft and direct the National Guard Bureau and Air National Guard (ANG) to enter into one or more Memorandum of Agreement so that the platform may be used to support the missions and activities of relevant federal civilian agencies.

The RC-26B is a manned intelligence, surveillance, and reconnaissance (ISR) and incident awareness assessment (IAA) platform utilized by the ANG. This aircraft is uniquely qualified as the only fixed-winged aircraft to have Title 32 authority to conduct domestic surveillance while maintaining the ability to conduct Title 10 missions abroad. The RC-26B has proven itself a remarkable asset for the ANG, providing significant contributions to Operation Iraqi Freedom and Operation Enduring Freedom in Afghanistan while also conducting wildfire assessment, hurricane relief, and counter cartel missions with domestic law enforcement.

For these reasons, and in light of consistent reports from senior national security officials that the United States has a shortage of manned ISR assets, we were alarmed by the ANG's announced plans to divest this important platform from operational status. We believe that divestment of this aircraft without appropriate consultation with this committee and interested members of Congress is extremely troubling and short sighted.

Enclosed with this letter is suggested bill and report language to halt the divestment of the RC-26B, ensure it is utilized to meet the statutory obligations of civilian agencies, and provide budgetary relief to the ANG. Again, we respectfully request that you include this important language in the forthcoming NDAA for Fiscal Year 2020.

Thank you for your thoughtful consideration of our request and for your dutiful leadership of the House Armed Services Committee. Should you have any questions or concerns, please do not hesitate to contact us.

Sincerely,



ADAM KINZINGER
Member of Congress



CATHY MCMORRIS RODGERS
Member of Congress



PETE OLSON
Member of Congress



DAVID B. MCKINLEY, P.E.
Member of Congress

Bill Language:

SEC. _____. (a) LIMITATION OF FUNDS - Notwithstanding any other provision of law, no funds authorized to be appropriated by this Act may be used to—

- (a) retire, divest, realign, or place in storage or on backup aircraft inventory status, or prepare to retire, divest, realign, or place in storage or on backup aircraft inventory status, any manned aerial platform, including the RC-26B in both its Block 20 and Block 25 configurations, which are used in—
 - a. the execution of intelligence, surveillance, and reconnaissance missions, as defined in Department of Defense Dictionary of Military and Associated Terms, January 2019; or
 - b. support of the incident awareness and assessment mission, as defined in Joint Publication 3-28, updated October 29, 2018;

or

(b) disestablish or convert units associated with such platforms.

(b) MEMORANDUM OF AGREEMENT.—Notwithstanding any other provision of law, the Chief of the National Guard Bureau and the Director of the Air National Guard shall enter into one or more Memorandum of Agreement with other federal entities for the purposes of assisting with the missions and activities of such entities.

(a) ELIGIBLE ACTIVITIES.—Activities eligible for support through a memorandum of agreement pursuant to subsection (a) include, but are not limited to—

- a. domestic operations, including but not limited to situational awareness; damage assessment; evacuation monitoring; search and rescue; chemical, biological, radiological, and nuclear assessment; hydrographic survey, dynamic ground coordination, and cyberspace incident response; and
- b. foreign operations, consistent with Title 10, United States Code;

(b) EXCEPTIONS.—Nothing in this section, or any memorandum of agreement established pursuant to this section, shall be construed to hinder or prevent the Secretary of Defense or the Secretary of the Air Force from—

- c. prioritizing the utilization of the RC-26B to facilitate high-priority missions, as designated by the president, under Title 32 or Title 10; or
- d. otherwise designating the RC-26B to a major command, as defined by Air Force Instruction 38-101, updated January 31, 2017.

(c) AIR FORCE REPORT.—Not later than one year after enactment of this Act, the Secretary of the Air Force shall submit to Congressional defense committees a report detailing the manner in which the Secretary would provide manned ISR/IAA mission support to military and non-military entities in the event the RC-26B is divested. The Secretary shall include a determination regarding whether or not this support would be commensurate with that which the RC-26B is able to provide.

Report Language:

PROHIBITION ON DIVESTITURE, RC-26B.—The committee remains concerned over the health and readiness of the Air National Guard's RC-26B intelligence, surveillance, and reconnaissance (ISR) and incident awareness assessment (IAA) platform. The committee is aware that the RC-26B is the Air National Guard's only manned, domestic IAA aircraft and that it is a critical asset in responding quickly to natural disasters, hurricanes, wildfires, missing persons, and terrorist attacks. Furthermore, the committee notes that this aircraft plays a vital role in counter-cartel operations on the southern border and has aided in the arrests of cartel members, confiscation of thousands of pounds of drugs, as well as confiscation of cash and weapons. This aircraft is uniquely qualified as the only fixed-winged aircraft to have Title 32 authority to conduct domestic surveillance, while maintaining the ability to conduct Title 10 missions abroad.

For these reasons, and in light of consistent reports from senior national security officials that the United States has a shortage of ISR assets, the committee was alarmed by the announced plans to divest this important platform from operational status, and without appropriate consultation with this committee and interested members of Congress. Any decisions or actions to divest the RC-26B without the proper engagement with Congress and other stakeholders would be hasty and shortsighted, the result of which would negate the benefits that the RC-26B aircraft provides to local, state, and federal partners; as well as its ability to respond to regional and national security issues. However, the committee was pleased that the Secretary of the Air Force and the Chief of the National Guard Bureau heard the concerns of members of Congress about this decision and agreed to temporarily delay those divestiture plans while promising to work with the committee to find an equitable solution.

Accordingly, no funds from this account may be used to retire, divest, realign, or place in storage or on backup aircraft inventory status, or prepare to retire, divest, realign, or place in storage or on backup aircraft inventory status, manned ISR/IAA platforms, including the RC-26B in either its Block 20 or Block 25 configurations. In an effort to ensure this important aerial platform will continue to be utilized to support the interests of the United States, the committee directs the Chief of the National Guard Bureau, in coordination with the Director of the Air National Guard, to enter into not less than one Memorandum of Agreement with other federal entities for purposes of assisting domestic operations, foreign operations, or both.

To bolster the Air Force and Air National Guard's manned ISR/IAA capabilities, the committee further directs the Director of the Air National Guard to fully and expeditiously execute its previously-approved plans to upgrade the RC-26B.