Public Law 111–383
111th Congress

An Act

To authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This Act may be cited as the "Ike Skelton National Defense Authorization Act for Fiscal Year 2011".

(b) REFERENCES.—Any reference in this or any other Act to the "National Defense Authorization Act for Fiscal Year 2011" shall be deemed to refer to the "Ike Skelton National Defense Authorization Act for Fiscal Year 2011".

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into three divisions as follows:

(1) Division A—Department of Defense Authorizations.
(2) Division B—Military Construction Authorizations.
(3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

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Subtitle A—Authorization of Appropriations

SEC. 101. ARMY.

Funds are hereby authorized to be appropriated for fiscal year 2011 for procurement for the Army as follows:

(1) For aircraft, $5,908,384,000.
(2) For missiles, $1,670,463,000.
(3) For weapons and tracked combat vehicles, $1,656,263,000.
(4) For ammunition, $1,963,194,000.
(5) For other procurement, $9,758,965,000.

SEC. 102. NAVY AND MARINE CORPS.

(a) NAVY.—Funds are hereby authorized to be appropriated for fiscal year 2011 for procurement for the Navy as follows:

(1) For aircraft, $18,877,139,000.
(2) For weapons, including missiles and torpedoes, $3,358,264,000.
(C) The Philippines.

(2) Submission to Congress.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a copy of each written determination under paragraph (1), together with an explanation of the basis for such determination.

(c) Limitation and Exception.—Section 862 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 10 U.S.C. 2302 note), as amended by subsection (a) and by section 831, is further amended—

(1) by redesignating subsection (g), as redesignated by such section 831, as subsection (h) and inserting after subsection (f) the following new subsection (g):

“(g) Limitation.—With respect to an area of other significant military operations, the requirements of this section shall apply only upon agreement of the Secretary of Defense and the Secretary of State. An agreement of the Secretaries under this subsection may be made only on an area-by-area basis. With respect to an area of combat operations, the requirements of this section shall always apply.”; and

(2) in subsection (h), as so redesignated—

(A) by striking the subsection designation and “Exception.” and inserting the following:

“(h) Exception.—

(1) Intelligence Activities.—”; and

(B) by adding at the end the following new paragraph:

“(2) Nongovernmental Organizations.—The requirements of this section shall not apply to a nonprofit nongovernmental organization receiving grants or cooperative agreements for activities conducted within an area of other significant military operations if the Secretary of Defense and the Secretary of State agree that such organization may be exempted. An exemption may be granted by the agreement of the Secretaries under this paragraph on an organization-by-organization or area-by-area basis. Such an exemption may not be granted with respect to an area of combat operations.”.

(d) Report on Implementation.—Not later than 180 days after a designation of an area as an area of combat operations or an area of other significant military operations pursuant to subsection (b)(2), the Secretary of Defense, in coordination with the Secretary of State, shall submit to Congress a report on steps taken or planned to be taken to implement the regulations prescribed under section 862 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 10 U.S.C. 2302 note) in such area. In the case of any agreement by the Secretaries to limit the applicability of such section or exempt nongovernmental organizations from such section, pursuant to subsections (g) or (h)(1) of such section (as added by subsection (c)), the report shall document the basis for such agreement.

10 USC 2302 note.

SEC. 833. STANDARDS AND CERTIFICATION FOR PRIVATE SECURITY CONTRACTORS.

(a) Review of Third-Party Standards and Certification Processes.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall—

(1) determine whether the private sector has developed—
(A) operational and business practice standards applicable to private security contractors; and
(B) third-party certification processes for determining whether private security contractors adhere to standards described in subparagraph (A); and
(2) review any standards and processes identified pursuant to paragraph (1) to determine whether the application of such standards and processes will make a substantial contribution to the successful performance of private security functions in areas of combat operations or other significant military operations.

(b) Revised Regulations.—Not later than 270 days after the date of the enactment of this Act, the Secretary of Defense shall revise the regulations promulgated under section 862 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 10 U.S.C. 2302 note) to ensure that such regulations—

(1) establish criteria for defining standard practices for the performance of private security functions, which shall reflect input from industry representatives as well as the Inspector General of the Department of Defense; and
(2) establish criteria for weapons training programs for contractors performing private security functions, including minimum requirements for weapons training programs of instruction and minimum qualifications for instructors for such programs.

(c) Inclusion of Third-Party Standards and Certifications in Revised Regulations.—

(1) Standards.—If the Secretary determines that the application of operational and business practice standards identified pursuant to subsection (a)(1)(A) will make a substantial contribution to the successful performance of private security functions in areas of combat operations or other significant military operations, the revised regulations promulgated pursuant to subsection (b) shall incorporate a requirement to comply with such standards, subject to such exceptions as the Secretary may determine to be necessary.

(2) Certifications.—If the Secretary determines that the application of a third-party certification process identified pursuant to subsection (a)(1)(B) will make a substantial contribution to the successful performance of private security functions in areas of combat operations or other significant military operations, the revised regulations promulgated pursuant to subsection (b) may provide for the consideration of such certifications as a factor in the evaluation of proposals for award of a covered contract for the provision of private security functions, subject to such exceptions as the Secretary may determine to be necessary.

(d) Definitions.—In this section:

(1) Covered Contract.—The term "covered contract" means—

(A) a contract of the Department of Defense for the performance of services;
(B) a subcontract at any tier under such a contract; or
(C) a task order or delivery order issued under such a contract or subcontract.
(2) CONTRACTOR.—The term "contractor" means, with respect to a covered contract, the contractor or subcontractor carrying out the covered contract.

(3) PRIVATE SECURITY FUNCTIONS.—The term "private security functions" means activities engaged in by a contractor under a covered contract as follows:

(A) Guarding of personnel, facilities, or property of a Federal agency, the contractor or subcontractor, or a third party.

(B) Any other activity for which personnel are required to carry weapons in the performance of their duties.

(e) EXCEPTION.—The requirements of this section shall not apply to contracts entered into by elements of the intelligence community in support of intelligence activities.

SEC. 834. ENHANCEMENTS OF AUTHORITY OF SECRETARY OF DEFENSE TO REDUCE OR DENY AWARD FEES TO COMPANIES FOUND TO JEOPARDIZE THE HEALTH OR SAFETY OF GOVERNMENT PERSONNEL.

(a) EXPANSION OF DISPOSITIONS SUBJECT TO AUTHORITY.—Section 823 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2412; 10 U.S.C. 2309 note) is amended—

(1) in subsection (c), by adding at the end the following new paragraph:

"(5) In an administrative proceeding, a final determination of contractor fault by the Secretary of Defense pursuant to subsection (d);"

(2) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(3) by inserting after subsection (c) the following new subsection (d):

"(d) DETERMINATIONS OF CONTRACTOR FAULT BY SECRETARY OF DEFENSE.—

"(1) IN GENERAL.—In any case described by paragraph (2), the Secretary of Defense shall—

(A) provide for an expeditious independent investigation of the causes of the serious bodily injury or death alleged to have been caused by the contractor as described in that paragraph; and

(B) make a final determination, pursuant to procedures established by the Secretary for purposes of this subsection, whether the contractor, in the performance of a covered contract, caused such serious bodily injury or death through gross negligence or with reckless disregard for the safety of civilian or military personnel of the Government.

"(2) COVERED CASES.—A case described in this paragraph is any case in which the Secretary has reason to believe that—

(A) a contractor, in the performance of a covered contract, may have caused the serious bodily injury or death of any civilian or military personnel of the Government; and

(B) such contractor is not subject to the jurisdiction of United States courts.

"(3) CONSTRUCTION OF DETERMINATION.—A final determination under this subsection may be used only for the purpose