

138th CONGRESS
1ST SESSION

H.R.25

Providing for congressional authorization of the utilization of funds appropriated by the Budget for activities by the Department of Defense and Naval programs.

IN THE HOUSE OF REPRESENTATIVES

March 1, 2021

Mr. Mark of California (for himself), Mr. Ross of Arizona, Mr. Graves of California, Mr. Whitehouse, Mr. Wolf, Mr. Iltutmish of Georgia, Mr. Shapiro of Montana, Mr. Solomon of Massachusetts, Mr. Toby of Maryland, Mr. Reyes of South Carolina and Mr. Cesar of Spain) introduced the following bill

AN ACT

Providing for congressional authorization of the utilization of funds appropriated by the Budget for activities by the Department of Defense and Naval programs.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Ernest E. Evans Naval Authorization Act of March 2021 ”

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

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

Sec. 1. Short title.

Sec. 2. Organization of Act into subtitles; table of contents.

TITLE I — PROCUREMENT

Subtitle A- Naval Programs

Sec. 101. Multiyear Procurement Authority for Arleigh Burke Class Destroyers

Sec. 102. LHA Replacement Amphibious Assault Ship Program

Sec. 103. Use of national sea-based deterrence fund for incrementally funded contracts to provide full funding for Columbia class submarines.

Sec. 104. Sense of Congress on the naming of Naval Vessels

Subtitle B- Financial Matters

Sec. 105. General Transfer Authority

Subtitle C- Research, Development, Test, and Evaluation

Sec. 106. Transferability of Strategic Hypersonic Weapons Technologies to Surface Launched Platforms

Sec. 107. Report on Strategic Hypersonic Weapons

Sec. 108. Transferability of Existing Hypervelocity Projectiles to Surface Launched Platforms

Subtitle D- Authorization of Acquisition

Sec. 109. Authorization of Utilization of Appropriations

Sec. 110. Authorization of Amounts in Funding Tables

Sec. 111. Authorization of Funds for Fiscal Months February to August

Sec. 112. Incremental Procurement Funding

Sec. 113. Enactment

TITLE 1—PROCUREMENT

SUBTITLE A — NAVAL PROGRAMS

SEC. 101. MULTIYEAR PROCUREMENT AUTHORITY FOR ARLEIGH BURKE CLASS DESTROYERS.

- (a) **AUTHORITY FOR MULTIYEAR PROCUREMENT.**—Subject to section 2306b of title 10, United States Code, the Secretary of the Navy may enter into one or more multiyear contracts for the procurement of up to 7 Arleigh Burke-class Flight III guided-missile destroyers.
- (b) **AUTHORITY FOR ADVANCE PROCUREMENT.**—The Secretary of the Navy may enter into one or more contracts, beginning in the fiscal month February 2021, for advance procurement associated with the destroyers for which authorization to enter into a multiyear procurement contract is provided under subsection (a), and for systems and with systems associated with such destroyers in economic order quantities when cost savings are achievable.
- (c) **CONDITION FOR OUT-YEAR CONTRACT PAYMENTS.**—A contract entered into under subsection (a) shall provide that any obligation of the United States to make a payment under the contract for a fiscal month after fiscal month February 2021 is subject to the availability of appropriations or funds for that purpose for such later fiscal month.
- (d) **LIMITATION.**—The Secretary of the Navy may not modify a contract entered into under subsection (a) if the modification would increase the target price of the destroyer by more than 10 percent above the target price specified in the original contract awarded for the destroyer under subsection (a).

SEC. 102. LHA REPLACEMENT AMPHIBIOUS ASSAULT SHIP PROGRAM.

- (a) **AUTHORITY TO USE INCREMENTAL FUNDING.**—The Secretary of the Navy may enter into and incrementally fund a contract for detailed design and construction of the LHA replacement ship designated LHA 9 and, subject to subsection (b), funds for payments under the contract may be provided from amounts authorized to be appropriated for the Department of Defense for Shipbuilding and Conversion, Navy, for fiscal years 2021 through 2025.
- (b) **CONDITION FOR OUT-YEAR CONTRACT PAYMENTS.**—A contract entered into under subsection (a) shall provide that any obligation of the United States to make a payment under the contract for any subsequent fiscal month is subject to the availability of appropriations for that purpose for such subsequent fiscal month.

SEC. 103. USE OF NATIONAL SEA-BASED DETERRENCE FUND FOR INCREMENTALLY FUNDED CONTRACTS TO PROVIDE FULL FUNDING FOR COLUMBIA CLASS SUBMARINES.

- (a) **IN GENERAL.**—Section 2218a(h)(1) of title 10, United States Code, is amended—
 - (i) by striking “incrementally funded contracts for” and all that follows and inserting “incrementally funded contracts for—”; and
 - (ii) by adding at the end the following new subparagraphs: “(A) advance procurement of high value, long lead time items for nuclear-powered vessels to better support construction schedules and achieve cost savings through schedule reductions and properly phased installment payments; and “(B) construction of the first two Columbia class submarines.”.
- (b) **LIMITATION.**—None of the amounts authorized to be appropriated or otherwise made available for any of fiscal years 2021 through 2023 for the Department of Defense for Shipbuilding and Conversion, Navy, for the “Ohio Replacement Submarine” line item, may be obligated or expended for the construction of SSBN 827, unless otherwise specifically provided by law.

SEC. 104. SENSE OF CONGRESS ON THE NAMING OF NAVAL VESSELS

It is the sense of Congress that the Secretary of the Navy should name the next 10 unnamed vessels in honor of the following individuals.

- (a) Former President Joseph R. Smith
- (b) Former President Ian Halpert
- (c) Former President John Lilburne
- (d) Former President David Mark
- (e) United States Navy Third Class and Navy Cross Recipient Doris Miller
- (f) United States Army Captain and Medal of Honor Recipient Ben L. Salomon
- (g) United States Navy Commander and Medal of Honor Recipient Ernest E. Evans
- (h) United States Army Major and Medal of Honor Recipient George Edward Wahlen
- (i) United States Army Corporal and Medal of Honor Recipient Desmond Doss
- (j) United States Navy Commodore and Congressional Gold Medal Recipient Stephen Decatur

SUBTITLE B — FINANCIAL MATTERS

SEC. 105. GENERAL TRANSFER AUTHORITY.

- (a) **AUTHORITY TO TRANSFER AUTHORIZATIONS.—**
 - (i) **AUTHORITY.**—Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this title for fiscal year 2021 between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.
 - (ii) **LIMITATION.**—Except as provided in paragraph (3), the total amount of authorizations that the Secretary may transfer under the authority of this section may not exceed \$4,000,000,000.
- (b) **LIMITATIONS.**—The authority provided by subsection (a) to transfer authorizations—
 - (i) (1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and
 - (ii) (2) may not be used to provide authority for an item that has been denied authorization by Congress.

- (c) EFFECT ON AUTHORIZATION AMOUNTS.—A transfer made from one account to another under the authority of this section shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.
- (d) NOTICE TO CONGRESS.—The Secretary shall promptly notify Congress of each transfer made under subsection (a).

SUBTITLE C — RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

SEC. 106. TRANSFERABILITY OF STRATEGIC HYPERSONIC WEAPONS TECHNOLOGIES TO SURFACE LAUNCHED PLATFORMS.

- (a) SURFACE-LAUNCHED TECHNOLOGIES.—The Secretary of The Navy shall ensure that the technologies developed for the conventional prompt global strike weapon system are transferable to a surface-launched platform.
 - (i) “The Secretary shall initiate efforts to integrate such technologies to DDG–1000 class destroyers during fiscal year 2021.”.
- (b) REPORT.—Not later than 120 days after the date of the enactment of this Act, the Secretary of the Navy shall submit to the congressional defense committees a report on the programmatic changes required to integrate the conventional prompt global strike weapon system into current or future surface combatant ships.

SEC. 107. REPORT ON STRATEGIC HYPERSONIC WEAPONS.—

- (a) REQUIREMENT.—Not later than 120 days after the date of the enactment of this Act, the Chairman of the Joint Chiefs of Staff, in coordination with the Under Secretary of Defense for Policy, shall submit to the congressional defense committees a report on strategic hypersonic weapons.
- (b) (MATTERS INCLUDED.—The report under paragraph (1) shall include the following:
 - (i) A discussion of the authority and policy processes to use hypersonic weapons and if, and how, such authorities would be delegated to the commanders of the combatant commands or to the Chiefs of the Armed Forces.
 - (ii) (B) How escalation risks will be addressed with regards to the use of strategic hypersonic weapons, including—
 - (1) whether any risk escalation exercises have been conducted or are planned for the potential use of hypersonic weapons; and

- (2) an analysis of the escalation risks posed by foreign hypersonic systems that are potentially nuclear and conventional dual-use capable weapons.
- (iii) The potential target sets for hypersonic weapons envisioned as of the date of the report and the required mission planning to support targeting by the United States Strategic Command and other combatant commands.
- (iv) Identification of the process for the Department of Defense to establish targeting and release authority for conventional prompt strike hypersonic weapons.
- (v) A description of how the requirements for land and sea-based hypersonic weapons will be addressed with the Joint Requirements Oversight Council, and how such requirements will be formally provided to the military procuring such weapons through an acquisition program described under section 804 of the National Defense Authorization Act for Fiscal Year 2016 (10 U.S.C. 2302 note).
- (vi) The required force structures, including necessary training, simulators, and range use needed by the Armed Forces, to support the employment of such weapons against the classes of targets that will be held at risk.
- (vii) With respect to the force structure of the Navy—
 - (1) whether such weapons should be deployed on both submarines and surface combatants; and
 - (2) the number of such vessels that need to be so equipped.
 - (3) A basing strategy for land-based launch platforms and a description of the actions needed to be taken for future deployment of such platforms.
- (c) FORM.—The report under paragraph (a) shall be submitted in unclassified form, but may include a classified annex.

SEC. 108. TRANSFERABILITY OF EXISTING HYPERVELOCITY PROJECTILES TO SURFACE LAUNCHED PLATFORMS.

- (c) SURFACE-LAUNCHED TECHNOLOGIES.—The Secretary of The Navy shall ensure that the technologies developed for payload delivery including the Hypervelocity Projectile System are transferable to a surface-launched platform.
 - (i) The Secretary shall initiate efforts to evaluate and test new such technologies for the purposes of adaptation to DDG–1000 and DDG–51 class destroyers during fiscal year 2021.

SUBTITLE D — AUTHORIZATION OF ACQUISITION

SEC. 109. AUTHORIZATION OF UTILIZATION OF APPROPRIATIONS.

- (a) Funds appropriated in the Consolidated Appropriations and Technical Amendments Act of February 2021 are hereby authorized for use by the Department of Defense in the amounts specified in funding table Section 111 (a)(i) of this Act.
 - (i) Authorization of funds for subsequent Fiscal Months shall be subject to Section 111 – 112 of this act.

SEC. 110. AUTHORIZATION OF AMOUNTS IN FUNDING TABLES.

- (a) **IN GENERAL.**—Whenever a funding table in this subtitle specifies a dollar amount authorized for a project, program, or activity, the obligation and expenditure of the specified dollar amount for the project, program, or activity is hereby authorized, subject to the availability of appropriations.
- (b) **MERIT-BASED DECISIONS.**—A decision to commit, obligate, or expend funds with or to a specific entity on the basis of a dollar amount authorized pursuant to subsection (a) shall— (1) be based on merit-based selection procedures in accordance with the requirements of sections 2304(k) and 2374 of title 10, United States Code, or on competitive procedures; and (2) comply with other applicable provisions of law. (c)
- (c) **RELATIONSHIP TO TRANSFER AND PROGRAMMING AUTHORITY.**—An amount specified in the funding tables in this subtitle may be transferred or reprogrammed under a transfer or reprogramming authority provided by another provision of this Act or by other law. The transfer or reprogramming of an amount specified in such funding tables shall not count against a ceiling on such transfers or reprogrammings under section 109 of this Act or any other provision of law, unless such transfer or reprogramming would move funds between appropriation accounts. (d)
- (d) **APPLICABILITY TO CLASSIFIED ANNEX.**—This section applies to any classified annex that accompanies this Act.
- (e) **ORAL AND WRITTEN COMMUNICATIONS.**—No oral or written communication concerning any amount specified in the funding tables in this Subtitle shall supersede the requirements of this section.

**SEC. 111. AUTHORIZATION OF UTILIZATION OF FUNDS FOR FISCAL
MONTHS FEBRUARY TO AUGUST (In Thousands of Dollars)**

Line	Item	Authorized
001	VIRGINIA CLASS SUBMARINE	4,620,471
	Restore second Virginia-class SSN	[2,296,000]
	Unjustified cost growth	[−10,222
002	DDG−51	11,566,590
	Basic Construction excess growth	[−66,000]
003	LHA REPLACEMENT	500,000
	LHA−9 program authorization	[500,000]
004	DDG- 1000 FITTING OUT	277,309
	DDG 1000 CLASS SUPPORT EQUIPMENT	[9,930]
	Research and Development	[111,435]
	TOTAL SHIPBUILDING AND CONVERSION, NAVY	16,964,370

SEC. 112. INCREMENTAL PROCUREMENT FUNDING

- (a) **FUNDING INTERVALS.** — funding for the Shipbuilding Programs outlined in Section.111. from Fiscal Months February to August shall be authorized in the following intervals. Funding in (thousands of dollars)
- (i) Fiscal Month February — 2,423,481
 - (ii) Fiscal Month March — 2,423,481
 - (iii) Fiscal Month April — 2,423,481
 - (iv) Fiscal Month May — 2,423,481
 - (v) Fiscal Month June — 2,423,481
 - (vi) Fiscal Month July — 2,423,481
 - (vii) Fiscal Month August — 2,423,481
- (b) **CONDITION FOR OUT-YEAR PROGRAM PAYMENTS.**—A contract entered shall provide that any obligation of the United States to make a payment under the contract for any subsequent fiscal month is subject to the availability of appropriations for that purpose for such subsequent fiscal month.

SEC. 113. ENACTMENT.

EFFECTIVE DATE.— The provisions of this Act shall come into force immediately upon passage.

Drafted by Congressman Mark (L-CA-2) for Congress' use.