SEC. 303 . REVISION TO SCOPE OF STATUTORILY REQUIRED REVIEW OF PROJECTS RELATING TO POTENTIAL OBSTRUCTIONS TO AVIATION SO AS TO APPLY ONLY TO ENERGY PROJECTS.

(a) SCOPE OF SECTION.—Section 358 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111–383; 124 Stat. 4200; 49 U.S.C. 44718 note) is amended—

(1) in subsection (c)(3), by striking "from State and local officials or the developer of a renewable energy development or other energy project" and inserting "from a State government, an Indian tribal government, a local government, a landowner, or the developer of an energy project";

(2) in subsection (c)(4), by striking "readiness, and" and all that follows and inserting "readiness and to clearly communicate actions being taken by the Department of Defense to the party requesting an early project review under this section.";

(3) in subsection (d)(2)(B), by striking "as high, medium, or low";

(4) by redesignating subsection (j) as subsection (k); and

(5) by inserting after subsection (i) the following new subsection (j):

"(j) APPLICABILITY OF SECTION.—This section does not apply to a non-energy project.".

(b) DEFINITIONS.—Subsection (k) of such section, as redesignated by paragraph (4) of subsection (a), is amended by adding at the end the following new paragraphs:

"(4) The term 'energy project' means a project that provides for the generation or transmission of electrical energy.

"(5) The term 'non-energy project' means a project that is not an energy project.

"(6) The term 'landowner' means a person or other legal entity that owns a fee interest in real property on which a proposed energy project is planned to be located.".

Section-by-Section Analysis

This proposal would make a number of changes to section 358 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (FY11 NDAA). Section 358 provides a framework under which the Department of Defense (DoD) evaluates energy projects for military mission compatibility.

The amendment made by paragraph (1) of subsection (a) would expand the coverage of the DoD Siting Clearinghouse to requests for informal reviews by Indian tribes and landowners. The Siting Clearinghouse is an office located in the Office of the Deputy Under Secretary of Defense (Installations and Environment) that serves as the DoD point of contact under which DoD evaluates energy projects for military mission compatibility. Should a project be found incompatible with a military mission, the Clearinghouse, along with Office of the Secretary of Defense functional and Service leads, attempts to develop mitigations with developers.

The amendment made by paragraph (2) of subsection (a) would clarify that information received from private entities, which is frequently confidential business information, is not required to be publicly released. Such a release would tend to reduce the willingness of private developers to seek early consultation with DoD.

The amendment made by paragraph (3) of subsection (a) would eliminate what DoD considers to be an arbitrary and undesirable manner of distinguishing categories of adverse risk impact.

The amendment made by paragraphs (4) and (5) of subsection (a) would ensure that section 358 is limited to applications for energy projects, as opposed to all projects for which applications are filed with the FAA. Section 358 currently applies to all project applications filed with the FAA regardless of purpose. It appears from subsection (a) of the statute that section 358 may not have been intended to have such a broad application, but was to be limited to DoD reviews of energy projects. The actual language of the statute, however, is not so limited. This proposal would limit the statute to applications related to non-energy project.

The FAA and DoD have a comprehensive process to review potential obstructions in the vicinity of military airfields. These reviews have been occurring for decades, and the Services have routinely handled such reviews at the regional level. The process has been effective for reviews of single structures. However, the scope and scale of renewable energy projects, such as a wind energy farm consisting of 300 turbines, requires an expanded process consistent with the stated objective of section 358.

The amendment made by of subsection (b) would add definitions of "energy project" and "landowner" to section 358.

Budgetary Implications: This proposal would not result in additional expenditures, but will result in savings of DoD appropriated funds through increased efficiency in the obstruction review process. Before section 358, issues were routinely resolved at the regional level by O-3 officers. With section 358, non-energy mission compatibility issues are currently resolved instead at the Deputy Secretary of Defense level. By replacing two meetings per year at the Deputy Secretary of Defense level with meetings at the O-3 officer level, the savings to the Department are estimated up to $200,000 based on the cost of time and staff resources.

RESOURCE REQUIREMENTS ($MILLIONS)								
	FY 2016	**FY 2017**	**FY 2018**	**FY 2019**	**FY 2020**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**
DoD wide	-$0.20	-$0.20	-$0.20	-$0.20	-$0.20	Operation and Maintenance, Defense-Wide	BA-2	270
Total	-$0.20	-$0.20	-$0.20	-$0.20	-$0.20		BA-2	270

* Resource savings are shown as negative numbers

NUMBER OF PERSONNEL AFFECTED								
	FY 2016	**FY 2017**	**FY 2018**	**FY 2019**	**FY 2020**	**Appropriation To**	**Budget Activity**	**Dash-1 Line Item**
DoD wide	-1	-1	-1	-1	-1	Operation and Maintenance, Defense-Wide	BA-2	270
Total	-1	-1	-1	-1	-1		BA-2	270

* Personnel savings are shown as negative numbers. Estimated number of work years is 4% of the number of personnel affected.

Changes to Existing Law: This proposal would make the following changes to section 358 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (49 U.S.C. 44718 note):

SEC. 358. STUDY OF EFFECTS OF NEW CONSTRUCTION OF OBSTRUCTIONS ON MILITARY INSTALLATIONS AND OPERATIONS.

(a) OBJECTIVE.—It shall be an objective of the Department of Defense to ensure that the robust development of renewable energy sources and the increased resiliency of the commercial electrical grid may move forward in the United States, while minimizing or mitigating any adverse impacts on military operations and readiness.

(b) DESIGNATION OF SENIOR OFFICIAL AND LEAD ORGANIZATION.—

(1) DESIGNATION.—Not later than 30 days after the date of the enactment of this Act [Jan. 7, 2011], the Secretary of Defense shall designate a senior official of the Department of Defense, and a lead organization of the Department of Defense, to—

(A) serve as the executive agent to carry out the review required by subsection (d);

(B) serve as a clearinghouse to coordinate Department of Defense review of applications for projects filed with the Secretary of Transportation pursuant to section 44718 of title 49, United States Code, and received by the Department of Defense from the Secretary of Transportation; and

(C) accelerate the development of planning tools necessary to determine the acceptability to the Department of Defense of proposals included in an application for a project submitted pursuant to such section.

(2) RESOURCES.—The Secretary shall ensure that the senior official and lead organization designated under paragraph (1) are assigned such personnel and resources as the Secretary considers appropriate to carry out this section.

(c) INITIAL ACTIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense, acting through the senior official and lead organization designated pursuant to subsection (b), shall—

(1) conduct a preliminary review of each application for a project filed with the Secretary of Transportation pursuant to section 44718 of title 49, United States Code, that may have an adverse impact on military operations and readiness, unless such project has been granted a determination of no hazard. Such review shall, at a minimum, for each such project—

(A) assess the likely scope and duration of any adverse impact of such project on military operations and readiness; and

(B) identify any feasible and affordable actions that could be taken in the immediate future by the Department, the developer of such project, or others to mitigate such adverse impact and to minimize risks to national security while allowing such project to proceed with development;

(2) develop, in coordination with other departments and agencies of the Federal Government, an integrated review process to ensure timely notification and consideration of projects filed with the Secretary of Transportation pursuant to section 44718 of title 49, United States Code, that may have an adverse impact on military operations and readiness;

(3) establish procedures for the Department of Defense for the coordinated consideration of and response to a request for a review received from ~~State and local officials~~ a State government, an Indian tribal government, a local government, a landowner, or the developer of ~~a renewable energy development or other~~ an energy project, including guidance to personnel at each military installation in the United States on how to initiate such procedures and ensure a coordinated Department response while seeking to fulfill the objective under subsection (a); and

(4) develop procedures for conducting early outreach to parties carrying out projects filed with the Secretary of Transportation pursuant to section 44718 of title 49, United States Code, that could have an adverse impact on military operations and readiness~~,~~ and to ~~the general public, to~~ clearly communicate ~~notice on~~ actions being taken by the Department of Defense to the party requesting an early project review under this section ~~and to receive comments from such parties and the general public on such actions~~.

(d) COMPREHENSIVE REVIEW.—

(1) ***

(2) ELEMENTS.—In developing the strategy required by paragraph (1), the Secretary of Defense shall—

(A) ***

(B) identify geographic areas selected as proposed locations for projects filed, or which may be filed in the future, with the Secretary of Transportation pursuant to section 44718 of title 49, United States Code, where such projects could have an adverse impact on military operations and readiness and categorize the risk of adverse impact in such areas ~~as high, medium, or low~~ for the purpose of informing early outreach efforts under subsection (c)(4) and preliminary assessments under subsection (e); and

(C) ***

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(j) APPLICABILITY OF SECTION.—This section does not apply to a non-energy project.

~~(j)~~ (k) DEFINITIONS.—In this section:

(1) The term "military training route" means a training route developed as part of the Military Training Route Program, carried out jointly by the Federal Aviation Administration and the Secretary of Defense, for use by the Armed Forces for the purpose of conducting low-altitude, high-speed military training.

(2) The term "military installation" has the meaning given that term in section 2801(c)(4) of title 10, United States Code.

(3) The term "military readiness" includes any training or operation that could be related to combat readiness, including testing and evaluation activities.

(4) The term "energy project" means a project that provides for the generation or transmission of electrical energy.

(5) The term "non-energy project" means a project that is not an energy project.

(6) The term "landowner" means a person or other legal entity that owns a fee interest in real property on which a proposed energy project is planned to be located.