108TH CONGRESS
2d Session
HOUSE OF REPRESENTATIVES
REPORT
108–663

VETERANS HEALTH PROGRAMS AND FACILITIES ENHANCEMENT ACT OF 2004

SEPTEMBER 8, 2004.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. SMITH of New Jersey, from the Committee on Veterans' Affairs, submitted the following

R E P O R T

[To accompany H.R. 4768]

[Including cost estimate of the Congressional Budget Office]

The Committee on Veterans' Affairs, to whom was referred the bill (H.R. 4768) to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to enter into certain major medical facility leases, to authorize that Secretary to transfer real property subject to certain limitations, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Veterans Health Programs and Facilities Enhancement Act of 2004".

(b) REFERENCES TO TITLE 38, UNITED STATES CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

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

TITLE I—MEDICAL FACILITIES MANAGEMENT

SEC. 101. MAJOR MEDICAL FACILITY LEASES.

(a) AUTHORIZED LEASES.—The Secretary of Veterans Affairs may enter into contracts for major medical facility leases at the following locations, in an amount for each facility lease not to exceed the amount shown for that location:

(1) Wilmington, North Carolina, Outpatient Clinic, $1,320,000.
(2) Greenville, North Carolina, Outpatient Clinic, $1,220,000.
(3) Norfolk, Virginia, Outpatient Clinic, $1,250,000.
(4) Summerfield, Florida, Marion County Outpatient Clinic, $1,230,000.
(5) Knoxville, Tennessee, Outpatient Clinic, $850,000.
(6) Toledo, Ohio, Outpatient Clinic, $1,200,000.
(7) Crown Point, Indiana, Outpatient Clinic, $850,000.
(8) Fort Worth, Texas, Tarrant County Outpatient Clinic, $3,900,000.
(9) Plano, Texas, Collin County Outpatient Clinic, $3,300,000.
(10) San Antonio, Texas, Northeast Central Bexar County Outpatient Clinic, $1,400,000.
(11) Corpus Christi, Texas, Outpatient Clinic, $1,200,000.
(12) Harlingen, Texas, Outpatient Clinic, $650,000.
(13) Denver, Colorado, Health Administration Center, $1,950,000.
(14) Oakland, California, Outpatient Clinic, $1,700,000.
(15) San Diego, California, North County Outpatient Clinic, $1,300,000.
(16) San Diego, California, South County, Outpatient Clinic, $1,100,000.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Veterans Affairs for fiscal year 2005 for the Medical Care account, $24,420,000 for the leases authorized in subsection (a).

(c) AUTHORITY FOR LEASE OF CERTAIN LANDS OF UNIVERSITY OF COLORADO.—Notwithstanding section 8103 of title 38, United States Code, the Secretary of Veterans Affairs may enter into a lease for real property located at the Fitzsimons Campus of the University of Colorado for a period up to 75 years.

SEC. 102. DEPARTMENT OF VETERANS AFFAIRS CAPITAL ASSET FUND.

(a) ESTABLISHMENT OF FUND.—(1) Subchapter I of chapter 81 is amended by adding at the end the following new section:

"§ 8118. Authority for transfer of real property; Capital Asset Fund

"(a)(1) The Secretary may transfer real property under the jurisdiction or control of the Secretary (including structures and equipment associated therewith) to another department or agency of the United States or to a State (or a political subdivision of a State) or to any public or private entity, including an Indian tribe. Such a transfer may be made only if the Secretary receives compensation of not less than the fair market value of the property, except that no compensation is required, or compensation at less than fair market value may be accepted, in the case of a transfer to a grant and per diem provider (as defined in section 2002 of this title). When a transfer is made to a grant and per diem provider for less than fair market value, the Secretary shall require in the terms of the conveyance that if the property transferred is used for any purpose other than a purpose under chapter 20 of this title, all right, title, and interest to the property shall revert to the United States.

"(2) The Secretary may exercise the authority provided by this section notwithstanding sections 521, 522 and 541–545 of title 40. Any such transfer shall be in accordance with this section and section 8122 of this title.

"(3) The authority provided by this section may not be used in a case to which section 8164 of this title applies.

"(4) The Secretary may enter into partnerships or agreements with public or private entities dedicated to historic preservation to facilitate the transfer, leasing, or adaptive use of structures or properties specified in subsection (b)(3)(D).

"(5) The authority of the Secretary under paragraph (1) expires on the date that is seven years after the date of the enactment of this section.

"(b)(1) There is established in the Treasury of the United States a revolving fund to be known as the Department of Veterans Affairs Capital Asset Fund (hereinafter

in this section referred to as the 'Fund'). Amounts in the Fund shall remain available until expended.

"(2) Proceeds from the transfer of real property under this section shall be deposited into the Fund.

"(3) To the extent provided in advance in appropriations Acts, amounts in the Fund may be expended for the following purposes:

"(A) Costs associated with the transfer of real property under this section, including costs of demolition, environmental remediation, maintenance and repair, improvements to facilitate the transfer, and administrative expenses.

"(B) Costs, including costs specified in subparagraph (A), associated with future transfers of property under this section.

"(C) Costs associated with enhancing medical care services to veterans by improving, renovating, replacing, updating, and establishing patient care facilities through construction projects to be carried out for an amount less than the amount specified in 8104(a)(3)(A) for a major medical facility project.

"(D) Costs, including costs specified in subparagraph (A), associated with the transfer, lease or adaptive use of a structure or other property under the jurisdiction of the Secretary that is listed on the National Register of Historic Places.

"(c) The Secretary shall include in the budget justification materials submitted to Congress for any fiscal year in support of the President's budget for that year for the Department specification of the following:

"(1) The real property transfers to be undertaken in accordance with this section during that fiscal year.

"(2) All transfers completed under this section during the preceding fiscal year and completed and scheduled to be completed during the year during which the budget is submitted.

"(3) The deposits into, and expenditures from, the Fund that are incurred or projected for each of the preceding fiscal year, the current fiscal year, and the fiscal year covered by the budget.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 8117 the following new item:

"8118. Authority for transfer of real property; Capital Asset Fund.".

(b) INITIAL AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Department of Veterans Affairs Capital Asset Fund established under section 8118 of title 38, United States Code (as added by subsection (a)), the amount of $10,000,000.

(c) TERMINATION OF NURSING HOME REVOLVING FUND.—(1) Section 8116 is repealed.

(2) The table of sections at the beginning of chapter 81 is amended by striking the item relating to section 8116.

(d) TRANSFER OF UNOBLIGATED BALANCES TO CAPITAL ASSET FUND.—Any unobligated balances in the nursing home revolving fund under section 8116 of title 38, United States Code, as of the date of the enactment of this Act shall be deposited in the Department of Veterans Affairs Capital Asset Fund established under section 8118 of title 38, United States Code (as added by subsection (a)).

(e) PROCEDURES APPLICABLE TO TRANSFERS.—(1) Paragraph (2) of section 8122(a) is amended to read as follows:

"(2) Except as provided in paragraph (3), the Secretary may not during any fiscal year transfer to any other department or agency of the United States or to any other entity real property that is owned by the United States and administered by the Secretary unless the proposed transfer is described in the budget submitted to Congress pursuant to section 1105 of title 31 for that fiscal year.".

(2) Section 8122(d) is amended—

(A) by inserting "(1)" before "Real property"; and

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

"(2) The Secretary may transfer real property under this section, or under section 8118 of this title if the Secretary —

"(A) places a notice in the real estate section of local newspapers and in the Federal Register of the Secretary's intent to transfer that real property (including land, structures, and equipment associated with the property);

"(B) holds a public hearing;

"(C) provides notice to the Administrator of General Services of the Secretary's intention to transfer that real property and waits for 30 days to elapse after providing that notice; and

"(D) after such 30-day period has elapsed, notifies the congressional veterans' affairs committees of the Secretary's intention to dispose of the property and waits for 60 days to elapse from the date of that notice.".

(3) Section 8164(a) is amended by inserting "8118 or" after "rather than under section".

(4) Section 8165(a)(2) is amended by striking "nursing home revolving fund" and inserting "Capital Asset Fund established under section 8118 of this title".

(f) CONTINGENT EFFECTIVENESS.—The amendments made by this section shall take effect at the end of the 30-day period beginning on the date on which the Secretary of Veterans Affairs certifies to Congress that the Secretary is in compliance with subsection (b) of section 1710B of title 38, United States Code. Such certification shall demonstrate a plan for, and commitment to, ongoing compliance with the requirements of that subsection.

(g) CONTINUING REPORTS.—Following a certification under subsection (f), the Secretary shall submit to Congress an update on that certification every six months until the certification is included in the Department's annual budget submission.

SEC. 103. ANNUAL REPORT TO CONGRESS ON INVENTORY OF DEPARTMENT OF VETERANS AFFAIRS HISTORIC PROPERTIES.

(a) IN GENERAL.—Not later than December 15 of 2005, 2006, and 2007, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the historic properties administered or controlled by the Secretary.

(b) INITIAL REPORT.—In the initial report under subsection (a), the Secretary shall set forth a complete inventory of the historic structures and property under the jurisdiction of the Secretary. The report shall include a description and classification of each such property based upon historical nature, current physical condition, and potential for transfer, leasing, or adaptive use.

(c) SUBSEQUENT REPORTS.—In reports under subsection (a) after the initial report, the Secretary shall provide an update of the status of each property identified in the initial report, with the proposed and actual disposition of each property. Each such report shall include any recommendation of the Secretary for legislation to enhance the transfer, leasing or adaptive use of such properties.

SEC. 104. AUTHORITY TO USE PROJECT FUNDS TO CONSTRUCT OR RELOCATE SURFACE PARKING INCIDENTAL TO A CONSTRUCTION OR NONRECURRING MAINTENANCE PROJECT.

Section 8109 is amended by adding at the end the following new subsection:

"(j) Funds in a construction account or capital account that are available for a construction project or a nonrecurring maintenance project may be used for the construction or relocation of a surface parking lot incidental to that project.".

SEC. 105. INAPPLICABILITY OF LIMITATION ON USE OF ADVANCE PLANNING FUNDS TO AUTHORIZED MAJOR MEDICAL FACILITY PROJECTS.

Section 8104 is amended by adding at the end the following new subsection:

"(g) The limitation in subsection (f) does not apply to a project for which funds have been authorized by law in accordance with subsection (a)(2).".

SEC. 106. IMPROVEMENT IN ENHANCED-USE LEASE AUTHORITIES.

Section 8166(a) is amended by inserting "land use," in the second sentence after "relating to".

SEC. 107. EXTENSION OF AUTHORITY TO PROVIDE CARE UNDER LONG-TERM CARE PILOT PROGRAMS.

Subsection (h) of section 102 of the Veterans Millennium Health Care and Benefits Act (38 U.S.C. 1710B note) is amended—

(1) by inserting "(1)" before "The authority of"; and

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

"(2) In the case of a veteran who is participating in a pilot program under this section as of the end of the three-year period applicable to that pilot program under paragraph (1), the Secretary may continue to provide to that veteran any of the services that could be provided under the pilot program. The authority to provide services to any veteran under the preceding sentence applies during the period beginning on the date specified in paragraph (1) with respect to that pilot program and ending on December 31, 2005.".

TITLE II—OTHER MATTERS

SEC. 201. INCLUSION OF ALL ENROLLED VETERANS AMONG PERSONS ELIGIBLE TO USE CANTEENS OPERATED BY VETERANS' CANTEEN SERVICE.

The text of section 7803 is amended to read as follows:

"(a) PRIMARY BENEFICIARIES.—Canteens operated by the Service shall be primarily for the use and benefit of—

"(1) veterans hospitalized or domiciled at the facilities at which canteen services are provided; and

"(2) other veterans who are enrolled under section 1705 of this title.

"(b) OTHER AUTHORIZED USERS.—Service at such canteens may also be furnished to—

"(1) personnel of the Department and recognized veterans' organizations who are employed at a facility at which canteen services are provided and to other persons so employed;

"(2) the families of persons referred to in paragraph (1) who reside at the facility; and

"(3) relatives and other persons while visiting a person specified in this section.".

SEC. 202. ENHANCEMENT OF MEDICAL PREPAREDNESS OF DEPARTMENT.

(a) PEER REVIEW PANEL.—In order to assist the Secretary of Veterans Affairs in selecting facilities of the Department of Veterans Affairs to serve as sites for centers under section 7327 of title 38, United States Code, as added by subsection (c), the Secretary shall establish a peer review panel to assess the scientific and clinical merit of proposals that are submitted to the Secretary for the selection of such facilities. The panel shall be established not later than 90 days after the date of the enactment of this Act and shall include experts in the fields of toxicological research, infectious diseases, radiology, clinical care of veterans exposed to such hazards, and other persons as determined appropriate by the Secretary. Members of the panel shall serve as consultants to the Department of Veterans Affairs. Amounts available to the Secretary for Medical Care may be used for purposes of carrying out this subsection. The panel shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

(b) PROPOSALS.—The Secretary shall solicit proposals for designation of facilities as described in subsection (a). The announcement of the solicitation of such proposals shall be issued not later than 60 days after the date of the enactment of this Act, and the deadline for the submission of proposals in response to such solicitation shall be not later than 90 days after the date of such announcement. The peer review panel established under subsection (a) shall complete its review of the proposals and submit its recommendations to the Secretary not later than 60 days after the date of the deadline for the submission of proposals. The Secretary shall then select the four sites for the location of such centers not later than 45 days after the date on which the peer review panel submits its recommendations to the Secretary.

(c) REVISED SECTION.—Subchapter II of chapter 73 is amended by adding at the end a new section with—

(1) a heading as follows:

"§ 7327. Medical preparedness centers"; and

(2) a text consisting of the text of subsections (a) through (h) of section 7325 of title 38, United States Code, and a subsection (i) at the end as follows:

"(i) FUNDING.—(1) There are authorized to be appropriated for the centers under this section $10,000,000 for each of fiscal years 2005 through 2007.

"(2) In addition to any amounts appropriated for a fiscal year specifically for the activities of the centers pursuant to paragraph (1), the Under Secretary for Health shall allocate to the centers from other funds appropriated for that fiscal year generally for the Department medical care account and the Department medical and prosthetics research account such amounts as the Under Secretary determines necessary in order to carry out the purposes of this section.".

(d) RULE OF CONSTRUCTION.—No provision of law may be construed to supersede or nullify this section, or an amendment made by this section, unless it specifically refers to this subsection and specifically states that it is enacted to supersede or nullify this section or a provision of this section.

Amend the title so as to read:

A bill to authorize the Secretary of Veterans Affairs to enter into certain major medical facility leases, to authorize that Secretary to transfer real property subject to certain limitations, otherwise to improve management of medical facilities of the Department of Veterans Affairs, and for other purposes.

INTRODUCTION

On June 24, 2004, the Subcommittee on Health held a hearing to consider a draft bill that preceded the introduction of H.R. 4768, a bill to authorize major medical facility leases for fiscal year 2005,

to amend the authority of the Secretary of Veterans Affairs to enter into enhanced-use real property leases, establish a capital asset fund and for other purposes.

Witnesses who appeared before the Subcommittee included Honorable Anthony J. Principi, Secretary of Veterans Affairs, accompanied by the following individuals from the Department of Veterans Affairs (VA): Honorable Tim S. McClain, General Counsel; Honorable William H. Campbell, Assistant Secretary for Management; Mrs. Laura Miller, Deputy Under Secretary for Health for Operations and Management; and Mr. James M. Sullivan, Deputy Director, Office of Asset Enterprise. Honorable Everett Alvarez, Jr., the former Chairman of the Capital Asset Realignment for Enhanced Services (CARES) Commission; Mr. Dennis Brimhall, President and Chief Executive Officer of the University of Colorado Hospital and Mr. Lawrence A. Biro, Network Director of the Veterans Integrated Services Network (VISN) 19, the Rocky Mountain Network; Mr. John L. Nau, III, Chairman of the President's Advisory Council on Historic Preservation; Mr. Dennis Samic, Treasurer, American Veterans Heritage Center, Inc.; Mr. Richard Jones, National Legislative Director, AMVETS; Mr. Rick Weidman, Director, Government Relations, Vietnam Veterans of America; Ms. Joy J. Ilem, Assistant National Legislative Director, Disabled American Veterans; Mr. Richard Fuller, National Legislative Director, Paralyzed Veterans of America; and Mr. Peter S. Gaytan, Principal Deputy Director, The American Legion, also provided testimony.

On July 7, 2004, Honorable Rob Simmons introduced H.R. 4768, the Veterans Health Programs and Facilities Enhancement Act of 2004. The original cosponsors of the bill included Honorable Ciro D. Rodriguez, Honorable Christopher H. Smith, Honorable Lane Evans, Honorable Cliff Stearns, Honorable Jeff Miller, Honorable Bob Beauprez, and Honorable Bob Filner. On July 8, 2004, the Subcommittee on Health met and unanimously ordered H.R. 4768 reported favorably to the full Committee.

On July 21, 2004, the full Committee met and ordered H.R. 4768, as amended, reported favorably to the House by unanimous voice vote.

SUMMARY OF THE REPORTED BILL

H.R. 4768, as amended, would:

1. Authorize leases to be paid from the medical care account for VA outpatient clinics or other health care facilities as follows: Wilmington, North Carolina, in the amount of $1,320,000; Greenville, North Carolina, in the amount of $1,220,000; Norfolk, Virginia, in the amount of $1,250,000; Summerfield, Florida, in the amount of $1,230,000; Knoxville, Tennessee, in the amount of $850,000; Toledo, Ohio, in the amount of $1,200,000; Crown Point, Indiana, in the amount of $850,000; Fort Worth, Texas, in the amount of $3,900,000; Plano, Texas, in the amount of $3,300,000; San Antonio, Texas, in the amount of $1,400,000; Corpus Christi, Texas, in the amount of $1,200,000; Harlingen, Texas, in the amount of $650,000; Denver, Colorado, in the amount of $1,950,000; Oakland, California, in the amount of

$1,700,000; San Diego, California (two sites), in the amounts of $1,300,000 and $1,100,000, respectively.

2. Authorize appropriations of $24,420,000 for the leases in paragraph 1.
3. Authorize VA to enter into a long-term lease of up to 75 years for land to construct a new medical facility on the Fitzsimons Campus of the University of Colorado, in Aurora, Colorado.
4. Provide the Secretary with additional authority to transfer unneeded real property and retain the proceeds from the transfer.
5. Require VA to receive fair market value for any transfer of real property, except when transferred to providers of homeless veterans' services receiving grants under section 2011 of title 38, United States Code.
6. Establish a new "Capital Asset Fund" for deposit of proceeds from transfers of real property to defray VA's cost of such transfers, including demolition, environmental remediation, maintenance, repair, historic preservation and administrative expenses.
7. Require the Secretary to include in the Department's annual budget submission to Congress information on real property transfers, and Capital Asset Fund deposits and expenditures.
8. Authorize an appropriation of $10,000,000 for the Capital Asset Fund.
9. Terminate the Nursing Home Revolving Fund and transfer unobligated balances to the Capital Asset Fund.
10. Make the property transfer authority contingent on the Secretary's certification that VA facilities maintain long-term care capacity as required by law.
11. Require an inventory and annual reports to Congress on the status of and plans for VA historic properties.
12. Authorize the use of project funds to construct or relocate surface parking incidental to an authorized major medical facility construction project.
13. Provide the Secretary flexibility in using funds to develop advance planning for major construction projects previously authorized by law.
14. Exempt VA from state and local land use laws under the enhanced-use lease authority.
15. Extend until December 31, 2005, VA's authority to provide care to veterans participating in certain long-term care demonstration projects previously authorized in the Veterans Millennium Health Care and Benefits Act.
16. Clarify that veterans enrolled in VA health care are eligible to use the Veterans' Canteen Service (VCS).
17. Reduce the amount authorized to establish four National Medical Emergency Preparedness Centers from $20 million to $10 million per year.

BACKGROUND AND DISCUSSION

Major medical facility leases.—Section 8104(a)(2) of title 38, United States Code, prohibits VA from obligating or expending funds for a lease costing more than $600,000 per year unless that lease has been specifically authorized by law. VA's fiscal year 2005 budget submission included a request for authority to execute six major medical facility leases in the following locations: (1) Greenville, North Carolina, Outpatient Clinic, $1,220,000; (2) Wilmington, North Carolina, Outpatient Clinic, $1,320,000; (3) Oakland, California, Outpatient Clinic, $1,700,000; (4) Toledo, Ohio, Outpatient, Clinic, $1,200,000; (5) Crown Point, Indiana, Outpatient Clinic, $850,000; and (6) Denver, Colorado, Health Administration Center, $1,950,000. These leases would replace or expand leases for existing facilities in these locations.

Additionally, VA's Five-Year Capital Plan for 2005–2009, submitted to the Committees on Veterans' Affairs in May, 2004, included a request for 11 additional major medical facility leases at the following locations: (1) Norfolk, Virginia, Outpatient Clinic, $1,250,000; (2) Summerfield, Florida, Marion County Outpatient, Clinic, $1,230,000; (3) Knoxville, Tennessee, Outpatient Clinic, $850,000; (4) Fort Worth, Texas, Tarrant County Outpatient Clinic, $3,900,000; (5) Plano, Texas, Collin County Outpatient Clinic, $3,300,000; (6) San Antonio, Texas, Northeast Central Bexar County Outpatient Clinic, $1,400,000; (7) Corpus Christi, Texas, Outpatient Clinic, $1,200,000; (8) Harlingen, Texas, Outpatient Clinic, $650,000; (9) Waco/Marlin, Texas, Outpatient Clinic, $2,600,000; (10) San Diego, California, North County Outpatient Clinic, $1,300,000; and (11) San Diego, California, South County, Outpatient Clinic, $1,100,000.

Section 101 of the bill would authorize 16 of the 17 requested leases and appropriations of $24,420,000 to support them. Of the 16 leases, the leases in Norfolk, Virginia; Summerfield, Florida; Plano, Texas, and San Antonio, Texas, would be for new facilities. The remaining 12 leases are replacements or expansions for existing leased facilities. The lease requested for Waco/Marlin, Texas, Outpatient Clinic was not included in the bill because the Secretary's Decision Document on Capital Asset Realignment for Enhanced Services (CARES), submitted to the Committees on Veterans Affairs in May, 2004, required a study to assess the future of the mission of the Waco campus. The study is expected to be completed by January 1, 2005. Advancing a major medical facility lease in Waco/Marlin, Texas, for fiscal year 2005 before the study findings are available would be premature.

Section 213 of Public Law 108–170, the Veterans Health Care, Capital Asset, and Business Improvement Act of 2003, authorized the Secretary to carry out advance planning of a replacement facility in conjunction with the University of Colorado and the Department of Defense (DOD). As planned, VA would construct a new medical facility at the University of Colorado Fitzsimons campus. The replacement facility would be a Federal tower housing the medical services of the Denver Veterans Affairs Medical Center and the medical services of Buckley Air Force Base. VA's current leasing authority is limited to 20 years, an insufficient period of time for VA to acquire a land interest for the construction of a new

medical facility, given the nature of the pending investment. The Committee bill would provide VA with new leasing authority to enter into a long-term lease of up to 75 years. The new authority would ensure the government a long-term interest in the land, to warrant the construction of a multi-million dollar facility.

Department of Veterans Affairs Capital Asset Fund.—Section 102 of the bill would amend chapter 81 of title 38, United States Code, to add a new section 8118 to provide the Secretary with new authority to transfer by sale, exchange or lease unneeded real properties currently in VA's portfolio; would establish a new "Capital Asset Fund" to finance transfers; and would repeal the Nursing Home Revolving Fund in section 8116 of title 38, United States Code.

In place of the Nursing Home Revolving Fund, a new fund would be established to be known as the Capital Asset Fund. This change would acknowledge that VA has not been aggressive in making property transfers for the benefit of the Nursing Home Revolving Fund. Developing infrastructure to meet veterans' needs for long-term care has been a low priority of the VA for many years. Residual balances from the Nursing Home Revolving Fund would be authorized to be deposited into the Fund, and the Fund would be authorized initial appropriations of $10,000,000.

This Capital Asset Fund would be used as well for the general purpose of defraying VA's cost of transferring real property, including demolition, environmental restoration, maintenance and repair, and for historic preservation and administrative expenses. The new property transfer authority would establish "fair market value" as the basis for property transfers. The Secretary would be required to include in each year's budget submission to Congress a report of both the uses of the Capital Asset Fund and descriptive information on each completed, pending and planned property disposal.

To ensure VA would meet its commitment to the long-term care needs of veterans, the property transfer authority in this bill would be contingent upon the Secretary certifying that VA facilities maintain long-term care capacity as required by subsection (b) of section 1710B of title 38, United States Code. The bill would require the Secretary to submit an update on that certification every six months until the certification is included in the Department's annual budget submission.

Annual report to Congress on inventory of Department of Veterans Affairs historic properties.—Many of VA's important historic buildings are poorly maintained or falling into ruin. The Federal Advisory Council on Historic Preservation has testified that some of these facilities date from the 19th century following the American Civil War, and many more were constructed as a part of the Nation's response to caring for wounded soldiers and sailors in World Wars I and II. Approximately 40 percent of the VA's medical centers are identified "historic districts," as defined by the National Register of Historic Places, and contain more than 1,900 historic structures. In addition, a large number of properties are individually listed or eligible for listing in the National Register, including at least 32 archaeological sites.

Section 103 of the bill would require VA to establish a national inventory of historic VA properties, and would require reports to

Congress over several years on the status and plans associated with any VA property listed on the National Register of Historic Places. The Committee concluded that VA should use the new Capital Asset Fund to preserve historic VA properties, among other purposes.

Authority to use project funds to construct or relocate surface parking incidental to a construction or non-recurring maintenance project.—Non-recurring maintenance and construction projects at medical facilities frequently involve relocating existing facility parking lots to make way for the construction projects involved. Current law requires VA to use the Parking Revolving Fund authorized in section 8109 of title 38, United States Code, as the authority and funding source to establish all VA health care related parking facilities. Surface parking lots are included in the definition of parking facilities. This specific-purpose fund is partitioned from any non-recurring maintenance or major medical facility construction account authorized by Congress for use for the projects themselves. The dual funding necessitates a separate contracting process and needlessly complicates projects.

Section 104 of the bill would provide VA authority to use funds for the primary construction project for related parking lot relocation. This would eliminate the administrative burden of separate financial accounting for parking lot projects.

Inapplicability of limitation on use of advanced planning funds to authorized major medical facility projects.—Section 8104 of title 38, United States Code, prohibits the Secretary from obligating advance planning funds for major medical facility construction projects in excess of $500,000 until 30 days after submission of a report to the Committees on Veterans' Affairs of the Senate and House of Representatives on the proposed obligation. This reporting requirement delays design planning for projects that have been expressly approved by Congress in prior authorization and appropriations acts. Section 105 of the bill would eliminate the burden of reporting as it applies to projects that have previously been authorized and appropriated by Congress.

Improvement in enhanced-use lease authorities.—Section 8166 of title 38, United States Code, provides the Secretary permissive authority to disregard State and local laws relating to building codes, permits or inspections that would regulate or restrict construction, alternation, repair, remodeling or improvement of VA property associated with an enhanced-use lease under section 8162 of title 38, United States Code. Section 106 of the bill would add to existing exemptions from State and local laws for enhanced-use leases any land-use laws.

Extension of authority to provide care under long-term care pilot programs.—The Veterans Millennium Health Care and Benefits Act established an innovative three-year pilot program in long-term care. To respond to this requirement, VA established a three-site program along the lines of the Medicare "Program of All-Inclusive Care for the Elderly," known as the "PACE" program. The Act was intended to test the feasibility, acceptability, outcomes and costs of care using different models of care management and delivery. The three program sites are Dayton, Ohio; Denver, Colorado; and Co-

lumbia, South Carolina. The authority for the pilot program expires December 31, 2004. VA has requested authority to extend for one year the duration of this authority to allow VA to continue to deliver the care participating veterans are receiving in these locations. Section 107 of the bill would extend VA's authority to provide care to veterans in these pilot programs until December 31, 2005. This would allow for an orderly transition of health care services for those veterans participating in the PACE program at the termination of the current authority.

Inclusion of all enrolled veterans among persons eligible to use canteens operated by Veterans' Canteen Service.—The Veterans' Canteen Service is authorized in chapter 78, of title 38, United States Code, to provide essential commercial products and services to veterans hospitalized and domiciled in VA hospitals and homes. Over the past ten years, VA's health care system has shifted significantly from institutional and inpatient services to outpatient primary care. Simultaneously, States have taken on a significantly larger role in caring for veterans in need of long-term, institutional care. Thus, the formal mission statement of the Canteen Service, to provide services to veterans "hospitalized or domiciled," has become increasingly inconsistent with VA's larger health care mission. Section 201 of the bill would state that the Veterans' Canteen Service mission is to serve veterans enrolled in the VA health care system.

Enhancement of medical preparedness of Department.—The Department of Veterans Affairs Emergency Preparedness Act of 2002 requires the Secretary to establish four Medical Emergency Preparedness Research Centers. These centers have not been established. Section 202 of the bill would restate the intent of Congress that a series of specific actions be taken by the Secretary to establish the centers by dates certain, in accordance with the original intent of Congress.

SECTION-BY-SECTION ANALYSIS

Section 1 of the bill would name the Act the "Veterans Health Programs and Facilities Enhancement Act of 2004."

Section 101(a) of the bill would authorize the Secretary of Veterans Affairs to enter into 16 specified major medical facility leases that are required to be authorized by law because the cost of the lease exceeds $600,000 per year.

Section 101(b) of the bill would authorize $24,420,000 to be appropriated in fiscal year 2005 to VA for the leases authorized in subsection (a).

Section 101(c) of the bill would authorize the Secretary to enter into a lease for real property located at the University of Colorado, Fitzsimons Campus, for a period up to 75 years.

Section 102(a) of the bill would amend subchapter I of chapter 81 of title 38, United States Code, to add a new section 8118 to provide for the transfer of real property under the jurisdiction or control of the Secretary, and for establishment of a Capital Asset Fund.

New section 8118(a)(1–5) would authorize the Secretary to transfer VA real property, including land, structures and equipment as-

sociated with the property by sale or exchange to another Federal agency, a state or a political subdivision of a State, or any public or private entity; require VA to receive fair market value for any transfer of real property, except when transferred to providers of homeless veterans' services receiving grants under section 2011 of title 38, United States Code; and provide for expiration of the authority seven years after the date of enactment of this new section.

New section 8118(b)(1–3) would establish in the Treasury a fund known as the Capital Asset Fund and authorize VA to deposit proceeds from the transfer of VA real property into the Fund; authorize VA to expend Fund deposits for costs associated with the transfer of real property, including demolition, environmental remediation, maintenance, repair, historic preservation, related administrative expenses; authorize VA to expend Fund deposits for future transfers; authorize VA to expend Fund deposits to enhance medical care services by improving, renovating, replacing, updating, and establishing patient care facilities.

New section 8118(c) would require the Secretary to include in the annual VA budget reports submitted to Congress the transfers to be undertaken during that fiscal year, completed during the preceding fiscal year, and planned or scheduled to be completed during that fiscal year; and deposits into and expenditures from the Fund incurred or projected for the preceding fiscal year, current fiscal year, and fiscal year covered by the proposed budget.

Section 102(b) would authorize an initial appropriation for the Capital Asset Fund established under new section 8118 in the amount of $10,000,000.

Section 102(c) would repeal section 8116 of title 38, United States Code, the Nursing Home Revolving Fund.

Section 102(d) would authorize the transfer of unobligated balances from the repealed Nursing Home Revolving Fund into the Capital Asset Fund established under new section 8118.

Section 102(e) would amend paragraph 2 of section 8122(a) of title 38, United States Code, to establish procedures applicable to transfers of VA properties including: notification in the budget submitted to Congress pursuant to section 1105 of title 31, United States Code; placing a notice of intent to transfer in applicable local newspapers and the Federal Register; holding public hearings; notification to the Administrator of General Services and waiting 30 days after each such notice; and notifying the Committees on Veterans' Affairs of the House and Senate of intention to dispose of properties and waiting 60 days from the date of each such notice.

Section 102(f) would make the property transfer authority established by new section 8118 contingent on the Secretary's certification to Congress that VA is in compliance with the long-term care capacity requirements of subsection (b) of section 1710B of title 38, United States Code.

Section 102(g) would require the Secretary to submit an update to Congress on the certification established in section 102(f) every six months until the certification is included in VA's annual budget submission.

Section 103(a) of the bill would require VA to submit a report to the Committees on Veterans' Affairs of the Senate and House of

Representatives by December 15 for fiscal year 2005 and two subsequent years on the status of and plans for VA historic properties.

Section 103(b) would require the Secretary to include in the initial report set forth in subsection (a) a description, classification, current physical condition and potential for transfer, leasing or adaptive use of each historic property.

Section 103(c) would require the Secretary to include in subsequent reports set forth in subsection (a) an update of the status of each property identified in the initial report and recommendations for legislation to enhance transfer, leasing or adaptive use of such properties.

Section 104 of the bill would amend section 8109 of title 38, United States Code, to add a new subsection (j) to authorize the use of available project funds to construct or relocate surface parking, when incidental to an authorized non-recurring maintenance or major medical facility construction project.

Section 105 of the bill would amend section 8104 of title 38, United States Code, to add a new subsection (g) to eliminate the existing limitation that requires VA to submit a report to Congress and wait 30 days before obligating advanced planning funds over $500,000 for the design or development of a major medical facility construction project previously authorized by law.

Section 106 of the bill would amend section 8166(a) of title 38, United States Code, to include "land-use" in the existing list of permissive exemptions from state and local laws for enhanced-use leases.

Section 107 of the bill would amend subsection (h) of section 102 of the Veterans Millennium Health Care and Benefits Act to extend VA's authority to provide services under the long-term care pilot programs authorized by that Act until December 31, 2005.

Section 201 of the bill would amend section 7803 of title 38, United States Code, to expand the definition of persons eligible to use the Veterans' Canteen Service to include all individuals enrolled in VA health care under section 1705 of title 38, United States Code, or employed at VA facilities, as well as families and relatives of veteran patients.

Section 202(a) of the bill would require the Secretary to establish a peer review panel not later than 90 days after the date of enactment of this Act to assist VA in selecting facilities to serve as sites for centers authorized under section 7327 (formerly section 7325).

Section 202(b) of the bill would: require the Secretary to solicit proposals for centers authorized in new section 7327 not later than 60 days after enactment of this Act; set a deadline for proposal submissions not later than 90 days after the solicitation is announced; require the peer review panel established under subsection (a) to submit recommendations to the Secretary not later than 60 days after the proposal deadline; and require the Secretary to select four sites for the location of such centers not later than 45 days after the date on which the peer review panel recommendations are submitted.

Section 202(c) of the bill would amend subchapter II of chapter 73 of title 38, United States Code, to add a new section 7327, Medical preparedness centers.

New Section 7327(a–h) would recodify the text of subsections (a–h) of section 7325 of title 38, United States Code.

New Section 7327(i)(1) and (2) would authorize $10,000,000 to be appropriated in fiscal year 2005 and each subsequent year through 2007 for the centers authorized in new section 7327; and require the Under Secretary for Health to allocate from other appropriated funds for a fiscal year such sums as necessary to carry out the purposes of new section 7327.

Section 202(d) of the bill would provide a rule of construction with respect to subsequent laws which purport to amend any of the provisions contained in this section of the bill.

PERFORMANCE GOALS AND OBJECTIVES

Department of Veterans Affairs' performance goals and objectives are established in annual performance plans and are subject to the Committee's regular oversight and evaluation by the U.S. Government Accountability Office. VA also publishes a performance and accountability report for each fiscal year.

STATEMENT OF THE VIEWS OF THE ADMINISTRATION

Statement of The Honorable Anthony J. Principi, Secretary of Veterans Affairs, Before The Subcommittee on Health, Committee on Veterans Affairs, U.S. House of Representatives

June 24, 2004

H.R. 4768

Mr. Chairman and Members of the Subcommittee:

Thank you for providing the Department of Veterans Affairs (VA) this opportunity to discuss my recent decisions surrounding the Capital Asset Realignment for Enhanced Services (CARES) and the draft of a proposed bill to be entitled, "The Department of Veterans Affairs Real Property and Facilities Improvement Act of 2004." The bill contains several provisions that would significantly enhance VA's ability to manage and expand its capital resources while promoting efficiencies, and cost savings. Most importantly, the bill would facilitate the implementation of CARES. I request an opportunity to more closely review the specific provisions of the bill and supply the results of our review for the record. [Subsequently, the Department provided no additional views on the bill.]

As you know, last month I announced my decision on the future of VHA's capital infrastructure and publicly released my CARES Decision Document, copies of which have been provided to the Committee. It is not my intention today to discuss the details of the entire decision document. Instead, I will focus my discussion on the following issues of particular interest to the Committee:

1. The CARES Implementation Board;
2. Community Based Outpatient Clinics;
3. Mental Health Strategic Plan;
4. Long-term Care Strategic Plan;
5. Veterans Rural Access Hospital;
6. Special Disability Program for Spinal Cord Injury and Disorders;
7. Capital Initiatives for the Veterans Health Administration; and
8. VA/DoD Sharing Opportunities

Before I address those topics, however, I would like to provide a brief background on CARES.

Background

CARES is a data-driven planning process designed to project future demand for health care services, compare projected demand against current supply, and identify the capital requirements and asset realignments VA needs to meet future demand for services, improve access to and quality of services, and improve the cost effectiveness of VA's health-care system. The CARES process is a comprehensive, system-wide approach to projecting into the future the appropriate function, size and

location of VA facilities. CARES was initiated to provide a plan for management of VA's capital infrastructure into the future that can be improved over time. For that reason, the tools and a process used to develop CARES will be integrated into annual capital and strategic planning cycles, ensuring continued and systematic planning for the capital resources VA needs to provide quality health care to veterans.

On February 12 of this year, the CARES Commission presented its final report to me. Following an intensive review of this report, I issued my "CARES Decision" on May 7, 2004. In that decision, I formally accepted the CARES Commission's recommendations using the flexibility the Commission provided to minimize the effect of any campus or service realignment on continuity of care to veterans currently receiving services. My Decision and the CARES Commission Report form the blueprint that will effectively guide the Department as it moves forward to enhance and improve health-care delivery to veterans by modernizing and more effectively managing its capital infrastructure.

CARES Implementation Board

To oversee the many and varied actions needed to carry out my CARES Decision, I established the CARES Implementation Board, which I will personally chair. The Board will provide Departmental oversight of CARES implementation and advise me on CARES-related decisions. The Board is an intra-Departmental, senior-level group and will ensure that implementation actions are consistent with my CARES Decision, meet the Decision's aggressive timeframes, and honor the personal and public commitments made during the CARES process.

The Board will actively participate in developing the methodologies and structure of CARES reviews and studies as called for in my Decision. All CARES decisions will be presented to the Board for my approval, unless approved by me for delegation. Recently the Board held its first meeting and reviewed options regarding the composition and membership of committees, task forces and other groups that will be established to conduct the various studies outlined in my CARES Decision. I expect that guidance will be finalized for my approval in the near future so that these groups may begin their studies and reviews.

Community-Based Outpatient Clinics (CBOCs)

VA is committed to continuing its efforts to meet national standards for access to care for our Nation's veterans by establishing new sites of care through CBOCs. VA will also continue to explore opportunities to improve management of existing CBOCs through more effective staffing, expanding hours of operation, and examining opportunities to augment services where appropriate.

To ensure that VA fulfills its commitment, I established priority criteria for the development of new CBOCs through the CARES process. The priority criteria include the development of CBOCs that:

1. are in markets with large numbers of enrollees, are outside of access guidelines, and are below VA national standards for primary care access;
2. are in markets that are classified as rural or highly rural and are below VA national standards for primary care access;
3. take advantage of VA/DoD sharing opportunities;
4. are associated with the realignment of a major facility; and
5. are required to address the workload in existing overcrowded facilities.

These criteria reflect my determination to produce more equitable access to VA services across the country, particularly in rural and highly rural areas where there are often limited health care options. They also reflect VA's ongoing commitment to strengthening sharing opportunities with the Department of Defense.

My Decision identifies 156 priority CBOCs. These priority CBOCs are targeted for implementation by 2012 pending availability of resources, validation with the most current data available, and approval through the National CBOC Approval Process and the CARES Implementation Board. As VA proceeds in implementing CARES and engages in future planning, the locations of these CBOCs may change, but the priorities will remain constant.

Planning the implementation of new CBOCs has begun. On May 13, 2004, a revised VA Handbook on Planning and Activation of CBOCs was issued to all VISNs. At the same time, VISNs were provided guidance on submission of new CBOC business plans. VISNs are now in the process of preparing business plans for priority CBOCs identified in my Decision that are planned for activation in FY 2004. Additionally, VISNs are preparing business plans for priority CBOCs planned for FY 2005 that require immediate review in order to proceed with VA/DoD agreements and leasing or contracting obligations. These business plans are to be completed and submitted to the Acting Under Secretary for Health by the end of this month. A

review panel will evaluate the business plans, score the applications and develop a recommendation that the Acting Under Secretary for Health will submit to me for approval.

VISNs also received guidance regarding establishing outreach clinics to an existing primary care site, changing the location of an existing CBOC, leasing additional space for an existing CBOC, expanding services at an existing CBOC and changing management models at CBOCs, such as VA-staffed or contract. To obtain approval for any of these changes to CBOCs, the VISNs must submit a justification for the change and a summary of stakeholder comments. In the case of establishing an outreach clinic subordinate to an existing primary care site, approval will be granted only for areas that meet the distance criteria for highly rural areas specified in the national planning criteria.

I should point out that although I established priority criteria and identified 156 priority CBOCs that meet these criteria, these priorities do not prohibit the VISNs from pursuing other CBOC opportunities. VISNs may submit business plans for establishing CBOCs earlier than originally indicated in my Decision or for establishing CBOCs not referenced in my Decision. In either scenario, however, the VISN must demonstrate that it will, at the same time, be able to open any priority CBOC on schedule.

Mr. Chairman, I recognize that resources are not available to open all of the priority clinics immediately. I will work closely with Congress for approval of appropriations to enhance access to VA health care services as well as expand the types of services offered in outpatient sites, particularly specialty care such as mental health services. Moreover, VA will manage implementation of CBOCs by applying the revised CBOC criteria within the existing National CBOC Approval Process and through the authority of the CARES Implementation Board. This will ensure a careful and considered implementation that mandates VISNs develop sound business plans and ensures that national criteria are met and that resources are available to provide the high quality of care veterans expect from VA.

Mental Health Strategic Plan

VA is committed to meeting the mental health needs of our Nation's veterans, and it is critical that VA's health care system consistently provides comprehensive mental health care services at a high level of quality across the country. Effective mental health treatment requires that veterans have appropriate access to a full continuum of mental health care services.

In my Decision I called for a comprehensive VA Mental Health Strategic Plan. This strategic plan, which is nearing completion, incorporates the recommendations of the report of the President's New Freedom Commission on Transforming Mental Health Care in America through VA's Action Agenda for Transforming Mental Health Care in VA. The recommendations resulting from the VA Mental Health Strategic Plan will require every VISN to develop mental health market plans that incorporate revised projections, which must include projected demand for outpatient mental health services and acute psychiatric inpatient care. Additionally, policies developed in the Mental Health Strategic Plan, such as special emphasis on integrating strategies to meet the future geropsych needs of the enrolled veteran population and incorporating the findings VHA's Work Group reviewing the President's New Freedom Commission on Mental Health Report, will be incorporated in the VISN's plans to ensure that comprehensive mental health services are included in CBOCs; that veterans have access to a full continuum of mental health care services, which are consistent across all VISNs; and ensure acute inpatient mental health services are collated with other inpatient services. I expect to receive the Mental Health Strategic Plan later this summer.

Long-term Care Strategic Plan

Mr. Chairman, many stakeholders have expressed concerns about how VA intends to address the provision of long-term care within the context of CARES. In order to respond to these concerns, I directed in my Decision that VHA develop a Long-term Care Strategic Plan addressing

- consistent access for nursing home care;
- geropsych needs;
- domiciliary care;
- long-term psychiatric care for the seriously mentally ill;
- expanding care coordination in the home;
- residential care, assisted living facilities; and
- other less restrictive care settings.

I am currently considering various policy options that have been designed to adhere to certain core principles, which include a policy that is clinically sound, is fair

for veterans, can be modeled for VISN planning, and is acceptable to Congress. Some of the key elements that I will strongly consider are the extent to which the Long-term Care Strategic Plan:

- focuses on veterans who need care for a short duration, for services to restore function following a period of hospitalization, for example, patients who have had a heart attack, stroke or hip replacement; veterans in need of respite care, and geriatric evaluation and management to stabilize medically complex patients; or end-of-life, hospice and palliative care for those who are terminally ill; and
- focuses on veterans who can no longer be maintained safely in home and community-based settings such as elderly patients needing help with activities of daily living, or who require long-term maintenance care and specialized services not generally available in the community, such as chronically mentally ill patients, spinal cord injury or traumatic brain injury patients, and ventilator dependent patients.

The Long-term Care Strategic Plan will be designed to improve the veteran's quality of life by seeking to preserve personal dignity, enhance emotional well being, and provide care in the least restrictive setting possible.

In addition to long-term nursing home care, VA is reviewing its long term-care policy in other key program areas, such as domiciliary and residential rehabilitation programs. VA's long-term care policies relating to these programs will assure that programs in domiciliary structures are focused on residential rehabilitation and that each patient has a clinical treatment plan. As each program (*e.g.*, mental health, substance abuse, and long-term care) defines its discrete capacity for residential rehabilitation, VA will have a more complete picture of the total capacity requirement for domiciliaries.

I will, of course, keep Congress informed of the Long-term Care Strategic Plan once adopted. Once again, in all cases, the Long-term Care Strategic Plan will be designed to improve the veteran's quality of life by seeking to preserve personal dignity, enhance emotional well being, and provide care in the least restrictive setting possible.

Veterans Rural Access Hospital

VA is also reviewing the "critical access hospital" concept that was initially introduced to help ensure the quality of the care that veterans receive at VA's small facilities. Recognizing that some small and rural facilities will be unable to maintain the workload necessary to perform certain surgical procedures or manage some complex illnesses effectively, VA will establish parameters to ensure high quality patient care. A new policy, Veterans Rural Access Hospital (VRAH), is under development and will specifically define the clinical and operational characteristics of small and rural facilities within VA. I have directed that the VRAH policy be completed later this month. In the interim, the missions of small facilities recommended for change will not be altered. Once the new VRAH policy is approved, however, VA will study the scope of services performed at VA's small and rural facilities using the policy's criteria and the guidance that will be provided. I anticipate the outcome of this study will be clarification of the type and complexity of surgical procedures that can be safely accomplished in small and rural facilities.

Special Disability Program for Spinal Cord Injury and Disorders (SCI&D)

I recommitted VA to excellence in care for veterans with SCI&D by approving new SCI&D Centers in Syracuse, Denver, Minneapolis, and VISN 16, and a certified SCI&D outpatient clinic in Philadelphia. I also approved expansion of existing SCI&D Centers in Memphis, Cleveland, Augusta, and Long Beach. As part of the implementation process for the new centers and the expansion of existing centers, I requested that VHA validate the number of SCI&D beds to ensure the appropriate need for and distribution between acute and long-term SCI&D beds. I also requested that VHA validate the expansion of the existing SCI&D Center or development of a new SCI&D Center in South Florida.

In preparation for implementation of the new and expanded SCI&D Centers, members of VHA's SCI&D Strategic Health Care Group have reviewed and validated SCI&D beds. A balance has been achieved between acute and long-term care planning based on dual, actuarial, demand-forecasting models that have been peer-reviewed, scrutinized, and vetted. The "*CARES Major Construction Projects FY 2004–2010*" appropriately includes plans for expansion of the existing SCI&D Center in Tampa. The new VISN 16 SCI&D Center needs inclusion in the "*CARES Major Construction Projects FY 2004–2010*". Ongoing planning for long-term care outside the SCI&D Centers will be refined after publication of VA's Long-Term Care Strategic Plan.

Capital Initiatives

I am pleased to announce that VA has developed a long-term Capital Plan, which will be delivered to members of Congress shortly. With more than 5,500 buildings and approximately 32,000 acres of land nation-wide, it is critical that VA have a systematic and comprehensive framework for managing its portfolio of capital assets. This plan provides that framework and is a sound blueprint for effective management of the Department's capital investments that will lead to improved resource use and more effective health care and benefits delivery for our Nation's veterans.

As we strive to meet the many challenges that lie ahead, this plan will act as our guide. I recently announced my decisions on the Capital Asset Realignment for Enhanced Services (CARES) process. CARES is the most comprehensive analysis of VA's health-care infrastructure that has ever been conducted and my decision provides a 20-year blueprint for the critical modernization and realignment of VA's health care system. Consistent with my decision, the capital plan outlines CARES implementation and identifies priority projects that will improve both the environment of care at, and expand access to, VA medical facilities and ensure more effective operations by redirecting resources from maintenance of vacant and underused buildings and reinvesting them in veterans' health care. Implementation of CARES will require substantial investment. While I will assess what amounts should be funded in future budgets, this plan reflects a need for additional investments of approximately $1 billion per year for the next 5 years to modernize VA's medical infrastructure and enhance veterans' access to care.

The capital plan also identifies our highest priority needs for new construction and expansion of cemeteries in areas where burial sites will soon be depleted, new benefits administration office facilities, and information technology projects designed to improve customer service and enhance delivery of VA benefits.

Additionally, this plan describes how VA will enhance collaborative efforts with the Department of Defense and increase the use of public and private ventures through VA's enhanced-use lease authority. By improving the way that we manage the enhanced-use lease process and engaging in productive public and private partnerships, VA can enhance benefits and services to our Nation's veterans and more effectively fulfill our mission.

As we move forward, VA will continue to improve stewardship of the funds entrusted to us by more effectively managing our capital assets and planning to meet the future needs of America's veterans and their families. By employing best business practices and maximizing the functional and financial value of our capital assets through well thought-out acquisitions, allocations, operations, and dispositions, VA will continue to ensure that all capital investments are based on sound business principles and—most importantly—meet our veterans' health care, benefits, and burial needs. I am confident that effective implementation of this plan will help us to achieve these important results.

VA's capital investment planning process and methodology ensure a Department-wide approach for the use of capital funds and ensure all major investments are based upon sound economic principles and are fully linked to strategic planning, budget, and performance measures and targets. On May 20, 2004, I transmitted an interim report to VA's 5-Year Capital Plan entitled "CARES Major Construction Projects Fiscal Year (FY) 2004—2010" to Congress. This interim report includes VA's highest priority major medical facility construction requirements over the next five years. VA's comprehensive 5-year capital plan will include other specific capital requirements such as leasing, minor construction, and community based outpatient clinics.

The projects listed in the interim report were identified through the CARES planning process as well as the VA's capital investment process, and support decisions identified in my CARES Decision. The CARES process focused on capital requirements at a macro-level by using projections of beds and inpatient and outpatient services. Once performance gaps were identified in the market plans, business case applications were developed for specific major construction projects in order to fill these gaps. Business case applications were scored and prioritized based on how well they addressed each of the criteria in the capital decision model. Over 100 CARES concept papers and business case applications were submitted and reviewed through VA's capital investment process utilizing criteria I approved in May 2004.

Once Congress approves the FY 2005 appropriations, VA will have more than $1 billion available to begin renovating and modernizing VA's health care system. In the next six months, VA intends to make 28 design awards, one land purchase, and a construction award for a bed tower at the West Side VA Medical Center in Chicago, Illinois. VA will use available funds from FY 2004 and prior year appropriations and funds appropriated for FY 2005 to carry out these awards. VA will proceed with planning and construction once the requirements of section 221 of Public Law

108–170 are fulfilled, which allows me to carry out major construction projections specified in the final CARES report 45 days after my submission of the interim report that was delivered to Congress on May 20th of this year.

VA/DoD Sharing Opportunities

Sharing between the Department of Veterans Affairs and the Department of Defense is a priority of the President and for both Departments. As my CARES decisions are implemented, we will continue to take all necessary steps to identify and act on available sharing opportunities.

My CARES decision identified 35 promising sharing opportunities. Working through the VA/DoD Joint Executive Council (JEC), co-chaired by VA's Deputy Secretary and DoD's Under Secretary for Personnel and Readiness, VA and DoD have already begun to work more closely toward making a reality of many of these opportunities.

For example, my CARES Decision, as well as VA's 5-Year Capital Plan, includes a number of significant ventures for VA—DoD collaboration including two new federal medical facilities in Denver, Colorado and Las Vegas, Nevada, a joint outpatient clinic in Pensacola, Florida, an outpatient clinic and regional office in Anchorage, Alaska, and an outpatient clinic in Columbus, Ohio.

In addition, the JEC recently established a Capital Asset Planning and Coordination Steering Committee, which will be responsible for identifying and overseeing opportunities that maximize capital asset resource utilization for both Departments. This body will oversee implementation of the VA/DoD recommendations that require capital planning and will seek to maximize productive collaboration between Departments in developing capital asset management sharing opportunities in the future. Both Departments recognize the importance of capital coordination efforts at the local level and the Capital Asset Planning and Coordination Steering Committee is working to improve the stability of VA/DoD partnerships through transition of management at local facilities.

With my discussion of the Department's capital initiatives and VA/DOD Sharing Opportunities as a backdrop, I will now turn to Section 2 of the proposed bill.

Section 2. Capital Leases

Section 2 would authorize me to enter into contracts for leases for the following seventeen facilities:

(1) Wilmington, North Carolina, Outpatient Clinic, $1,320,000;
(2) Greenville, North Carolina, Outpatient Clinic, $1,220,000;
(3) Norfolk, Virginia, Outpatient Clinic, $1,250,000;
(4) Summerfield, Florida Marion County, Outpatient, Clinic, $1,230,000;
(5) Knoxville, Tennessee, Outpatient Clinic, $850,000;
(6) Toledo, Ohio, Outpatient, Clinic, $1,200,000;
(7) Crown Point, Indiana, Outpatient Clinic, $850,000;
(8) Fort Worth, Texas, Tarrant County Outpatient Clinic, $3,900,000;
(9) Plano, Texas, Collin County Outpatient Clinic, $3,300,000;
(10) Saint Antonio, Texas, Northeast Central Bexar County Outpatient Clinic, $1,400,000;
(11) Corpus Christi, Texas, Outpatient Clinic, $1,200,000;
(12) Harlingen, Texas, Outpatient Clinic, $650,000;
(13) Waco/Marlin, Texas, Outpatient Clinic, $2,600,000;
(14) Denver, Colorado, Health Administration Center, $1,950,000;
(15) Oakland, California, Outpatient Clinic, $1,700,000;
(16) San Diego, California, North County Outpatient Clinic, $1,300,000; and
(17) San Diego, California, South County, Outpatient Clinic, $1,100,000.

Of these 17 leases, the leases in Norfolk, Virginia; Summerfield, Florida; Plano, Texas and San Antonio, Texas are new. The remaining 13 leases are replacement or expansions for existing leases. Please note that the leases in Section 2 should be identified as operating leases because they do not meet the required characteristics of a "capital lease". Capital leases are subject to specific requirements such as being scored under the OMB scorekeeping rules and the requirement that the entire cost of the lease be expended during the first year of the lease.

Section 2 of the bill authorizes for appropriation the sum of $27,020,000 for fiscal year 2005 for the Medical Care account for the leases listed in this section. My comment on the total amount of the authorization is consistent with my previous comments regarding the authorization of the seventeen leases identified in this section.

Section 2 further authorizes me to enter into a lease for real property located at the Fitzsimons campus of the University of Colorado for a period of up to 75 years. We have been involved in evaluating and planning for a facility for the Fitzsimons site and there is a potential for a joint venture with DOD to provide health care

to both veterans and DOD beneficiaries. Of the many issues remaining, the availability of land is a critical one.

The bill provides the Department a new leasing authority. The bill permits the VA to enter into a long-term lease of up to 75 years at the University of Colorado Hospital at the Fitzsimons Campus of the University of Colorado. This authority is necessary for the VA to acquire a sufficient land interest for the construction of a new medical facility on the Fitzsimons Campus. We support this proposal. The VA will enter into a sharing agreement with the University of Colorado Hospital, which will produce economies of scale of benefit to both parties. It is anticipated that this facility will be a joint operation of the Department of Veterans Affairs and the Department of the Air Force.

Section 3. Department of Veterans Affairs Capital Asset Fund

Section 3 of the bill would authorize VA to dispose of its excess real property by transfer to a Federal agency, a state or political subdivision of a state or to any public or private entity and to retain the proceeds generated by the disposals. We support this provision except for the language that limits the authority to the transfer of real property. To prevent any misinterpretation, we recommend that the words "sale, exchange, and" be inserted before the word transfer. This language will allow us to implement the nationwide recommendations of the recent CARES decision in a timely and efficient manner. Further, the section provides that VA receive compensation of not less than the fair market value of the property except in the case of a transfer to a grant and per diem provider (as defined in section 2002 of title 38). Further, the property would revert to the United States if the property transferred to a grant or per diem provider is used for other purposes. This latter provision could have government-wide implications, so until a thorough vetting of this provision is completed, we are not prepared to opine on it at this time.

The authority may be exercised notwithstanding 40 U.S.C. § 521, 522 and 541–545 and the McKinney-Vento Homeless Assistance Act (which provides that unused or underutilized Federal real property may be used to assist the homeless). We support this provision only because VA's homeless assistance programs now constitute the largest integrated network of services in the U.S.. In 2005 VA will spend $1.5 billion on medical services for the homeless and another $188 million on programs to return homeless veterans to stable living. These programs include outreach, case management, transitional residential care, rehabilitation care, income support assistance, permanent housing assistance, and follow-up care. We continually ensure that our property policies address the needs of the homeless. Section 3 of the proposed bill further provides that any such transfer shall be in accordance with this section and section 8122 of title 38. Section 8122 of title 38, requires that VA report the proposed transfer in its annual budget document before transferring real property valued in excess of $50,000 to another Federal agency or to a state or a political subdivision of a state for fair market value. As most parcels of real property exceed the $50,000 threshold, this would require VA to submit disposal information each time it sought to transfer real property to another Federal agency or to a state or a political subdivision. Therefore, we object to this provision. We suggest the proposal be amended to require the submission of a report along with the budget request for property valued equal to or more than the Major Medical Facility Project threshold identified in subsection 8104(a)(3)(A) of title 38.

The bill further provides that the authority provided by this section may not be used in a case in which section 8164 of title 38 (enhanced use) applies. We support this provision. The exercise of this authority expires seven years after the date of the enactment of this section. We strongly object to this provision. Should a 7-year limitation be established, we recommend that the Secretary transfer to any account or accounts any unobligated and undistributed dollars remaining in the Fund upon expiration of the authority. The proceeds from the transfer of real property under this section would be deposited in a Capital Asset Fund (the "Fund"), as provided for by this legislation. The bill would also terminate the Nursing Home Revolving Fund and deposit funds therein into the Fund. Further, the bill would authorize to be appropriated to the Fund $10,000,000.

Amounts in the Fund would have to be used for the costs of actual or planned disposals of real estate, including demolition, environmental cleanup, improvements to facilitate the transfers and administrative expenses. If amounts remain after those expenditures, like expenditures may be made for future transfers. Any remaining amounts are to be used for historic preservation as set forth in legislation. We appreciate the provisions that establish use of the Fund. However, we object to the limitation on the use of the proceeds to historic preservation after expenses. We would strongly support use of the Fund for non-recurring VA Capital projects as well as historic preservation.

Property may only be transferred under this section, or under sections 8117 or 8164 of title 38, after: (a) placing notice of my intent to do so in the local newspapers and in the Federal Register; (b) holding a public hearing; providing notice to the Administrator of General Services; (c) waiting 30 days to determine if another Federal agency has an interest in acquiring the property at fair market value; and (d) thereafter, providing a 60-day notice period for the congressional veterans' affairs committees to review the intended property disposal. We support the report and wait requirement of this section as it relates to 8117, but object to its application to 8164. The basis for the objection is that section 8164 already has specific notification requirements.

Section 3, additionally, would make two conforming amendments to VA's enhanced-use lease statute. First, it would amend section 8164(a) to provide that, before disposing of an enhanced-use leased property pursuant to section 8164, I must determine that a disposal under that section, rather than under the proposed new section 8117 (or under section 8122), would be in the best interests of the Department. Next, it would amend section 8165 (a)(2) to provide that proceeds from a disposal of enhanced-use leased property would be deposited in the proposed new Capital Asset Fund, vice the Nursing Home Revolving Fund.

Further, Section 3 states that the amendments made therein shall take effect at the end of the 30-day period beginning on the date that I certify to Congress that I am in compliance with subsection (b) of section 1710B of title 38. Also, following this certification, I am required to submit an update to Congress on that certification every six months until the certification is included in the Department's annual budget submission. The ability to better manage our capital assets through this section's real property disposal authority and compliance with 1710B(b) of title 38 are not appropriately joined. Conditions that may influence the Department's ability to meet its capacity requirements may not always be within our control. Therefore, VA objects to this provision.

Section 4. Authority to use Project Funds to Construct or Relocate Surface Parking Incidental to a Construction or Non-Recurring Maintenance Project

Section 4 of the bill would add language to Section 8109 that would allow funds in a construction account or capital account that are available for a construction project or nonrecurring maintenance project to also be used for constructing or relocating a surface parking lot incidental to that project. VA supports this provision of the bill.

Section 5. Advance Planning Funding for Major Medical Facilities

This bill would also exempt projects that have already been authorized by law from current statutory notice and wait requirements that apply to certain major medical facility projects. VA supports this provision of the bill.

Section 6. Improvement in Enhanced-Use Lease Authorities

This section would amend section 8166(a) to clarify that, in addition to the bar against subjecting any construction, alteration, repair, remodeling, or improvement of enhanced-use leased property to any State or local law relating to building codes, permits or inspections, such activities are to be exempt from any State or local law relating to land use, unless I provide otherwise. We support this provision.

Section 7. Extension of Authority to Provide Care Under Long-Term Care Pilot Programs

Section 7 of the draft bill would authorize VA to continue furnishing certain long-term care services to a very limited group of veterans still participating in a long-term care pilot program, the authority for which will be expiring soon. VA supports section 7 of the bill.

The Veterans Millennium Health Care and Benefits Act, enacted in 1999, directed that VA carry out a relatively small three-year pilot program to furnish veterans with all-inclusive long-term care services using three different models of care delivery. The effort was intended to test the feasibility, acceptability, outcomes and costs of care using each model. VA patterned the pilot on the Medicare Program of All-Inclusive Care for the Elderly, commonly referred to as the PACE Program. VA conducted the pilot program in three separate locations. In Dayton, Ohio, VA directly furnished pilot participants with all of the services typically included in the PACE Program. In Denver, VA furnished some of the services directly, but paid a capitated amount to a private Colorado PACE provider to furnish the remainder of the services. Finally, in Columbia, South Carolina, VA served as the care manager, but a private PACE provider furnished all care, receiving a capitated amount from VA.

The authority for the pilot program will be expiring later this year, and VA will be reporting to Congress regarding the program in March of 2005, as required by law.

At this point in time, the pilot program is winding down. VA has not been enrolling any new veterans in the pilot for some time. However, a few veterans will still be receiving care under the program when it ends. To ensure continuity of care and avoid disruption in the life of these elderly and frail patients, section 7 would authorize VA to continue to furnish these few veterans with the same services they have been receiving, in the same settings, until December 31, 2005. That time period would allow Congress time to review the post-pilot report, including VA's recommendations, and decide how to proceed. VA also anticipates that by that time, most participants will have moved to a different care setting.

Conclusion

Mr. Chairman, my CARES Decision and accompanying 5-year Capital Plan represent a blueprint for VA's future. Sophisticated forecasting models provide new and more complete information about the demand for VA health care. A comprehensive assessment of VA's facilities has greatly improved our understanding about the condition of VA's facilities. These factors, combined with the experience of conducting the CARES process, leave the Department well positioned to continue to expand the accuracy and scope of its planning efforts. Throughout the CARES implementation process we will keep you and other members of Congress informed and involved and, just as important, we will keep our patients and their families informed and involved.

This concludes my statement. I will now be happy to answer any questions that you or other members of the Subcommittee might have.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

The following letter was received from the Congressional Budget Office concerning the cost of the reported bill:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 26, 2004

Hon. CHRISTOPHER H. SMITH
Chairman, Committee on Veterans' Affairs,
House of Representatives, Washington, DC

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4768, the Veterans Health Programs and Facilities Enhancement Act of 2004.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Sam Papenfuss, who can be reached at 226–2840.

Sincerely,

DOUGLAS HOLTZ-EAKIN,
Director

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

H.R. 4768, Veterans Health Programs and Facilities Enhancement Act of 2004

As ordered reported by the House Committee on Veterans' Affairs on July 21, 2004

SUMMARY

H.R. 4768 would authorize the Department of Veterans Affairs (VA) to lease 16 facilities, most of which would be for outpatient

clinics. It also would create a new fund, the Department of Veterans Affairs Capital Asset Fund, that VA could use to pay for certain construction projects, subject to appropriation of the necessary amounts. The bill also would extend, through the end of calendar year 2005, the authority for VA to provide long-term care for veterans already enrolled in certain pilot programs. Finally, the bill would require VA to establish four medical preparedness centers and would authorize the appropriation of funds for those centers.

CBO estimates that implementing H.R. 4768 would cost $25 million in 2005 and $168 million over the 2005–2009 period, assuming appropriation of the necessary amounts. Enacting the bill would not affect direct spending or receipts.

H.R. 4768 contains an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA), but CBO estimates the cost, if any, for state and local governments to comply with that mandate would be well below the threshold established by UMRA ($60 million in 2004, adjusted annually for inflation). H.R. 4768 would not impose any private-sector mandates as defined in UMRA.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 4768 is shown in the following table. The costs of this legislation fall within budget function 700 (veterans benefits and services).

	By Fiscal Year, in Millions of Dollars					
	2004	2005	2006	2007	2008	2009
SPENDING SUBJECT TO APPROPRIATION						
Spending Under Current Law for Veterans' Medical Care						
Estimated Authorization Level[a]	27,957	28,888	29,706	30,608	31,117	32,104
Estimated Outlays	27,141	28,334	29,293	30,210	30,846	31,756
Proposed Changes:						
Authorization of Leases.						
Estimated Authorization Level	0	24	24	24	24	24
Estimated Outlays	0	12	24	24	24	24
Medical Preparedness Centers						
Estimated Authorization Level	0	10	10	10	10	10
Estimated Outlays	0	6	8	10	10	10
Capital Asset Fund						
Estimated Authorization Level	0	10	0	0	0	0
Estimated Outlays	0	2	4	3	1	0
Pilot Program Extension						
Estimated Authorization Level	0	5	1	0	0	0
Estimated Outlays	0	5	1	0	0	0
Total Changes						
Estimated Authorization Level	0	49	35	34	34	34
Estimated Outlays	0	25	37	37	35	34
Spending for Veterans' Medical Care Under H.R. 4768						
Estimated Authorization Level	27,957	28,937	29,741	30,642	31,151	32,138
Estimated Outlays	27,141	28,359	29,330	30,247	31,881	31,790

[a] The 2004 level is the amount appropriated for that year. No full-year appropriation has yet been provided for fiscal year 2005. The current-law amounts for the 2005–2009 period assume appropriations remain at the 2004 level with adjustments for anticipated inflation.

BASIS OF ESTIMATE

For this estimate, CBO assumes that the bill will be enacted before the end of calendar year 2004 and that the authorized and necessary amounts for implementing the bill will be appropriated for each year.

AUTHORIZATION OF LEASES

Section 101 would authorize VA to enter into leases at 16 different sites, most of which would be for outpatient clinics, and specifies the maximum lease payment for each site. In total, section 101 would authorize a little more than $24 million for these lease payments in 2005. Based on information from VA on previous leases and lease proposals, we expect these leases would be for a term of more than 10 years. For the purposes of this estimate, we assume that all of these leases would meet the criteria for an operating lease. (Those criteria are detailed in the Office of Management and Budget Circular A–11.) Because CBO has not seen any contracts that VA might use to enter into these leases, we cannot definitively say that these leases would meet the criteria for an operating lease.

Assuming it would take about six months to sign the lease agreements, CBO estimates that implementing this provision would cost $12 million in 2005 and $108 million over the 2005–2009 period, assuming appropriation of the authorized and estimated amounts.

MEDICAL PREPAREDNESS CENTERS

Under current law, VA is authorized to establish four medical emergency preparedness centers which have responsibilities to assist with chemical, biological, or radiological threats. In addition, the Congress has authorized the appropriation of $20 million a year through 2007 for these centers. As of the date of this estimate, VA has not established any centers and no appropriations have been made for that purpose.

Section 202 of H.R. 4768 would require VA to create four medical preparedness centers that would have the same responsibilities as the four medical emergency preparedness centers already authorized under current law. Section 202 would specifically authorize the appropriation of $10 million a year through 2007 and would require VA to provide additional funds if necessary. Based on information from VA, CBO believes $10 million a year would be sufficient to operate these four centers. Assuming normal start-up time for implementing new programs and the appropriation of the authorized and estimated amounts, CBO estimates that implementing this section would cost $6 million in 2005 and $44 million over the 2005–2009 period.

CAPITAL ASSET FUND

Section 102 would make it easier for VA to dispose of real property to both public and private entities and would establish a new fund in the Treasury to be known as the Department of Veterans Affairs Capital Asset Fund. Under the bill, VA would be able to dispose of real property without the requirement to use the General Services Administration (GSA), though VA would still have to notify GSA of its intent to dispose of real property. (The authority to dispose of property under this section would expire seven years after enactment of the bill.) The proceeds from property disposal would be deposited into the Capital Asset Fund and could be used to pay for costs associated with the transfer of property as well as construction projects with a cost less than $4 million. However, under section 102, expenditures from the fund would be subject to appropriation action. Thus, CBO does not expect that VA would significantly increase its sales or other dispositions of real property.

Section 102 also would authorize the appropriation of $10 million to the Capital Asset Fund where it could be used for the purposes stated above. Under the bill, section 102 would not take effect until the Secretary of VA certified that the department was in compliance with current law regarding the provision of extended care or long-term care to veterans. Assuming that the Secretary makes this certification by the end of the calendar year, CBO estimates that implementing this provision would cost $2 million in 2005 and $10 million over the 2005–2009 period, assuming appropriation of the authorized amount.

PILOT PROGRAM EXTENSION

Section 107 would allow VA to extend three pilot programs for long-term care through the end of calendar year 2005. According to VA, it spent about $5 million in 2003 on these pilot programs. Thus, CBO estimates that implementing section 107 would cost

about $5 million in 2005 and $6 million over the 2005–2006 period, assuming the appropriation of the necessary amounts.

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

H.R. 4768 contains an intergovernmental mandate as defined in UMRA because it would preempt state and local authority to regulate land use of property leased by VA. Under current law, that land is exempt from some state and local laws regulating building codes, permits, and inspections. This bill would expand those exemptions to include laws regulating land use. CBO estimates that the costs, is any, for state, local, and tribal governments to comply with that mandate would be well below the threshold established by UMRA ($60 million in 2004, adjusted annually for inflation). H.R. 4768 would not impose any private-sector mandates as defined in UMRA.

ESTIMATE PREPARED BY:
Federal Costs: Sam Papenfuss (226–2840)
Impact on State, Local, and Tribal Governments: Melissa Merrell (225–3220)
Impact on the Private Sector: Carla Murray (226–2900)

ESTIMATE APPROVED BY:
Peter H. Fontaine,
Deputy Assistant Director for Budget Analysis

STATEMENT OF FEDERAL MANDATES

The preceding Congressional Budget Office cost estimate concludes that the bill would not exceed the intergovernmental mandate threshold and would not impose private sector mandates as defined in the Unfunded Mandates Reform Act.

STATEMENT OF CONSTITUTIONAL AUTHORITY

Pursuant to Article I, section 8 of the United States Constitution, the reported bill is authorized by Congress' power to "provide for the common Defense and general Welfare of the United States."

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

TITLE 38, UNITED STATES CODE

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PART V—BOARDS, ADMINISTRATIONS, AND SERVICES

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CHAPTER 73—VETERANS HEALTH ADMINISTRATION—ORGANIZATION AND FUNCTIONS

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SUBCHAPTER II—GENERAL AUTHORITY AND ADMINISTRATION

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§ 7327. Medical preparedness centers

(a) ESTABLISHMENT OF CENTERS.—(1) The Secretary shall establish four medical emergency preparedness centers in accordance with this section. Each such center shall be established at a Department medical center and shall be staffed by Department employees.

(2) The Under Secretary for Health shall be responsible for supervising the operation of the centers established under this section. The Under Secretary shall provide for ongoing evaluation of the centers and their compliance with the requirements of this section.

(3) The Under Secretary shall carry out the Under Secretary's functions under paragraph (2) in consultation with the Assistant Secretary of Veterans Affairs with responsibility for operations, preparedness, security, and law enforcement functions.

(b) MISSION.—The mission of the centers shall be as follows:

(1) To carry out research on, and to develop methods of detection, diagnosis, prevention, and treatment of injuries, diseases, and illnesses arising from the use of chemical, biological, radiological, incendiary or other explosive weapons or devices posing threats to the public health and safety.

(2) To provide education, training, and advice to health care professionals, including health care professionals outside the Veterans Health Administration, through the National Disaster Medical System established pursuant to section 2811(b) of the Public Health Service Act (42 U.S.C. 300hh–11(b)) or through interagency agreements entered into by the Secretary for that purpose.

(3) In the event of a disaster or emergency referred to in section 1785(b) of this title, to provide such laboratory, epidemiological, medical, or other assistance as the Secretary considers appropriate to Federal, State, and local health care agencies and personnel involved in or responding to the disaster or emergency.

(c) SELECTION OF CENTERS.—(1) The Secretary shall select the sites for the centers on the basis of a competitive selection process. The Secretary may not designate a site as a location for a center under this section unless the Secretary makes a finding under paragraph (2) with respect to the proposal for the designation of such site. To the maximum extent practicable, the Secretary shall ensure the geographic dispersal of the sites throughout the United States. Any such center may be a consortium of efforts of more than one medical center.

(2) A finding by the Secretary referred to in paragraph (1) with respect to a proposal for designation of a site as a location of a center under this section is a finding by the Secretary, upon the rec-

ommendations of the Under Secretary for Health and the Assistant Secretary with responsibility for operations, preparedness, security, and law enforcement functions, that the facility or facilities submitting the proposal have developed (or may reasonably be anticipated to develop) each of the following:

(A) An arrangement with a qualifying medical school and a qualifying school of public health (or a consortium of such schools) under which physicians and other persons in the health field receive education and training through the participating Department medical facilities so as to provide those persons with training in the detection, diagnosis, prevention, and treatment of injuries, diseases, and illnesses induced by exposures to chemical and biological substances, radiation, and incendiary or other explosive weapons or devices.

(B) An arrangement with a graduate school specializing in epidemiology under which students receive education and training in epidemiology through the participating Department facilities so as to provide such students with training in the epidemiology of contagious and infectious diseases and chemical and radiation poisoning in an exposed population.

(C) An arrangement under which nursing, social work, counseling, or allied health personnel and students receive training and education in recognizing and caring for conditions associated with exposures to toxins through the participating Department facilities.

(D) The ability to attract scientists who have made significant contributions to the development of innovative approaches to the detection, diagnosis, prevention, or treatment of injuries, diseases, and illnesses arising from the use of chemical, biological, radiological, incendiary or other explosive weapons or devices posing threats to the public health and safety.

(3) For purposes of paragraph (2)(A)—

(A) a qualifying medical school is an accredited medical school that provides education and training in toxicology and environmental health hazards and with which one or more of the participating Department medical centers is affiliated; and

(B) a qualifying school of public health is an accredited school of public health that provides education and training in toxicology and environmental health hazards and with which one or more of the participating Department medical centers is affiliated.

(d) RESEARCH ACTIVITIES.—Each center shall conduct research on improved medical preparedness to protect the Nation from threats in the area of that center's expertise. Each center may seek research funds from public and private sources for such purpose.

(e) DISSEMINATION OF RESEARCH PRODUCTS.—(1) The Under Secretary for Health and the Assistant Secretary with responsibility for operations, preparedness, security, and law enforcement functions shall ensure that information produced by the research, education and training, and clinical activities of centers established under this section is made available, as appropriate, to health-care providers in the United States. Dissemination of such information shall be made through publications, through programs of continuing medical and related education provided through regional medical education centers under subchapter VI of chapter 74 of

this title, and through other means. Such programs of continuing medical education shall receive priority in the award of funding.

(2) The Secretary shall ensure that the work of the centers is conducted in close coordination with other Federal departments and agencies and that research products or other information of the centers shall be coordinated and shared with other Federal departments and agencies.

(f) COORDINATION OF ACTIVITIES.—The Secretary shall take appropriate actions to ensure that the work of each center is carried out—

(1) in close coordination with the Department of Defense, the Department of Health and Human Services, and other departments, agencies, and elements of the Government charged with coordination of plans for United States homeland security; and

(2) after taking into consideration applicable recommendations of the working group on the prevention, preparedness, and response to bioterrorism and other public health emergencies established under section 319F(a) of the Public Health Service Act (42 U.S.C. 247d–6(a)) or any other joint interagency advisory group or committee designated by the President or the President's designee to coordinate Federal research on weapons of mass destruction.

(g) ASSISTANCE TO OTHER AGENCIES.—The Secretary may provide assistance requested by appropriate Federal, State, and local civil and criminal authorities in investigations, inquiries, and data analyses as necessary to protect the public safety and prevent or obviate biological, chemical, or radiological threats.

(h) DETAIL OF EMPLOYEES FROM OTHER AGENCIES.—Upon approval by the Secretary, the Director of a center may request the temporary assignment or detail to the center, on a nonreimbursable basis, of employees from other departments and agencies of the United States who have expertise that would further the mission of the center. Any such employee may be so assigned or detailed on a nonreimbursable basis pursuant to such a request.

(i) FUNDING.—(1) There are authorized to be appropriated for the centers under this section $10,000,000 for each of fiscal years 2005 through 2007.

(2) In addition to any amounts appropriated for a fiscal year specifically for the activities of the centers pursuant to paragraph (1), the Under Secretary for Health shall allocate to the centers from other funds appropriated for that fiscal year generally for the Department medical care account and the Department medical and prosthetics research account such amounts as the Under Secretary determines necessary in order to carry out the purposes of this section.

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CHAPTER 78—VETERANS' CANTEEN SERVICE

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§ 7803. Operation of Service

[The canteens at hospitals and homes of the Department shall be primarily for the use and benefit of veterans hospitalized or domiciled at such hospitals and homes. Service at such canteens

may also be furnished to personnel of the Department and recognized veterans' organizations employed at such hospitals and homes and to other persons so employed, to the families of all the foregoing persons who reside at the hospital or home concerned, and to relatives and other persons while visiting any of the persons named in this section.]

(a) PRIMARY BENEFICIARIES.—Canteens operated by the Service shall be primarily for the use and benefit of—

(1) veterans hospitalized or domiciled at the facilities at which canteen services are provided; and

(2) other veterans who are enrolled under section 1705 of this title.

(b) OTHER AUTHORIZED USERS.—Service at such canteens may also be furnished to—

(1) personnel of the Department and recognized veterans' organizations who are employed at a facility at which canteen services are provided and to other persons so employed;

(2) the families of persons referred to in paragraph (1) who reside at the facility; and

(3) relatives and other persons while visiting a person specified in this section.

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PART VI—ACQUISITION AND DISPOSITION OF PROPERTY

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CHAPTER 81—ACQUISITION AND OPERATION OF HOSPITAL AND DOMICILIARY FACILITIES; PROCUREMENT AND SUPPLY; ENHANCED–USE LEASES OF REAL PROPERTY

SUBCHAPTER I—ACQUISITION AND OPERATION OF MEDICAL FACILITIES

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SUBCHAPTER I—ACQUISITION AND OPERATION OF MEDICAL FACILITIES

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§ 8104. Congressional approval of certain medical facility acquisitions

(a) * * *

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(g) The limitation in subsection (f) does not apply to a project for which funds have been authorized by law in accordance with subsection (a)(2).

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§ 8109. Parking facilities

(a) * * *

* * * * * * *

(j) Funds in a construction account or capital account that are available for a construction project or a nonrecurring maintenance project may be used for the construction or relocation of a surface parking lot incidental to that project.

* * * * * * *

[§ 8116. Nursing home revolving fund

[(a)(1) Amounts realized from a transfer pursuant to section 8122(a)(2)(C) of this title shall be administered as a revolving fund and shall be available without fiscal year limitation.

[(2) The revolving fund shall be deposited in a checking account with the Treasurer of the United States.

[(b)(1) The expenditure of funds from the revolving fund may be made only for the construction, alteration, and acquisition (including site acquisition) of nursing home facilities and may be made only as provided for in appropriation Acts.

[(2) For the purpose of section 8104(a)(2) of this title, a bill, resolution, or amendment which provides that funds in the revolving fund may be expended for a project involving a total expenditure of more than $2,000,000 for the construction, alteration, or acquisition (including site acquisition) of a nursing home facility shall be considered to be a bill, resolution, or amendment making an appropriation which may be expended for a major medical facility project.]

* * * * * * *

§ 8118. Authority for transfer of real property; Capital Asset Fund

(a)(1) The Secretary may transfer real property under the jurisdiction or control of the Secretary (including structures and equipment associated therewith) to another department or agency of the United States or to a State (or a political subdivision of a State) or to any public or private entity, including an Indian tribe. Such a transfer may be made only if the Secretary receives compensation of not less than the fair market value of the property, except that no compensation is required, or compensation at less than fair market value may be accepted, in the case of a transfer to a grant and per diem provider (as defined in section 2002 of this title). When a transfer is made to a grant and per diem provider for less than fair market value, the Secretary shall require in the terms of the conveyance that if the property transferred is used for any purpose other than a purpose under chapter 20 of this title, all right, title, and interest to the property shall revert to the United States.

(2) The Secretary may exercise the authority provided by this section notwithstanding sections 521, 522 and 541–545 of title 40. Any

such transfer shall be in accordance with this section and section 8122 of this title.

(3) The authority provided by this section may not be used in a case to which section 8164 of this title applies.

(4) The Secretary may enter into partnerships or agreements with public or private entities dedicated to historic preservation to facilitate the transfer, leasing, or adaptive use of structures or properties specified in subsection (b)(3)(D).

(5) The authority of the Secretary under paragraph (1) expires on the date that is seven years after the date of the enactment of this section.

(b)(1) There is established in the Treasury of the United States a revolving fund to be known as the Department of Veterans Affairs Capital Asset Fund (hereinafter in this section referred to as the "Fund"). Amounts in the Fund shall remain available until expended.

(2) Proceeds from the transfer of real property under this section shall be deposited into the Fund.

(3) To the extent provided in advance in appropriations Acts, amounts in the Fund may be expended for the following purposes:

(A) Costs associated with the transfer of real property under this section, including costs of demolition, environmental remediation, maintenance and repair, improvements to facilitate the transfer, and administrative expenses.

(B) Costs, including costs specified in subparagraph (A), associated with future transfers of property under this section.

(C) Costs associated with enhancing medical care services to veterans by improving, renovating, replacing, updating, and establishing patient care facilities through construction projects to be carried out for an amount less than the amount specified in 8104(a)(3)(A) for a major medical facility project.

(D) Costs, including costs specified in subparagraph (A), associated with the transfer, lease or adaptive use of a structure or other property under the jurisdiction of the Secretary that is listed on the National Register of Historic Places.

(c) The Secretary shall include in the budget justification materials submitted to Congress for any fiscal year in support of the President's budget for that year for the Department specification of the following:

(1) The real property transfers to be undertaken in accordance with this section during that fiscal year.

(2) All transfers completed under this section during the preceding fiscal year and completed and scheduled to be completed during the year during which the budget is submitted.

(3) The deposits into, and expenditures from, the Fund that are incurred or projected for each of the preceding fiscal year, the current fiscal year, and the fiscal year covered by the budget.

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SUBCHAPTER II—PROCUREMENT AND SUPPLY

* * * * * * *

§ 8122. Authority to procure and dispose of property and to negotiate for common services

(a)(1) * * *

[(2)(A) Except as provided in paragraph (3) of this subsection, the Secretary may not during any fiscal year transfer to another Federal agency or to a State (or any political subdivision of a State) any interest in real property described in subparagraph (B) of this paragraph unless (i) the transfer (as proposed) was described in the budget for that fiscal year submitted to Congress pursuant to section 1105 of title 31, and (ii) the Department receives compensation equal to the fair market value of the property.

[(B) An interest in real property described in this subparagraph is an interest in real property that is owned by the United States and administered by the Secretary and that has an estimated value in excess of $50,000.

[(C) Amounts realized from the transfer of any interest in real property described in subparagraph (B) of this paragraph shall be deposited in the nursing home revolving fund established under section 8116 of this title.]

(2) Except as provided in paragraph (3), the Secretary may not during any fiscal year transfer to any other department or agency of the United States or to any other entity real property that is owned by the United States and administered by the Secretary unless the proposed transfer is described in the budget submitted to Congress pursuant to section 1105 of title 31 for that fiscal year.

* * * * * * *

(d)*(1)* Real property under the jurisdiction of the Secretary may not be declared excess by the Secretary and disposed of by the General Services Administration or any other entity of the Federal Government unless the Secretary determines that the property is no longer needed by the Department in carrying out its functions and is not suitable for use for the provision of services to homeless veterans by the Department or by another entity under an enhanced-use lease of such property under section 8162 of this title.

(2) The Secretary may transfer real property under this section, or under section 8118 of this title if the Secretary —

(A) places a notice in the real estate section of local newspapers and in the Federal Register of the Secretary's intent to transfer that real property (including land, structures, and equipment associated with the property);

(B) holds a public hearing;

(C) provides notice to the Administrator of General Services of the Secretary's intention to transfer that real property and waits for 30 days to elapse after providing that notice; and

(D) after such 30-day period has elapsed, notifies the congressional veterans' affairs committees of the Secretary's intention to dispose of the property and waits for 60 days to elapse from the date of that notice.

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SUBCHAPTER V—ENHANCED–USE LEASES OF REAL PROPERTY

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§ 8164. Authority for disposition of leased property

(a) If, during the term of an enhanced-use lease or within 30 days after the end of the term of the lease, the Secretary determines that the leased property is no longer needed by the Department, the Secretary may initiate action for the transfer to the lessee of all right, title, and interest of the United States in the property. A disposition of property may not be made under this section unless the Secretary determines that the disposition under this section rather than under section *8118 or* 8122 of this title is in the best interests of the Department.

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§ 8165. Use of proceeds

(a)(1) * * *

(2) Funds received by the Department from a disposal of leased property under section 8164 of this title shall be deposited in the **[**nursing home revolving fund**]** *Capital Asset Fund established under section 8118 of this title*.

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§ 8166. Construction standards

(a) Unless the Secretary provides otherwise, the construction, alteration, repair, remodeling, or improvement of the property that is the subject of the lease shall be carried out so as to comply with all standards applicable to construction of Federal buildings. Any such construction, alteration, repair, remodeling, or improvement shall not be subject to any State or local law relating to *land use,* building codes, permits, or inspections unless the Secretary provides otherwise.

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SECTION 102 OF THE VETERANS MILLENNIUM HEALTH CARE AND BENEFITS ACT

SEC. 102. PILOT PROGRAMS RELATING TO LONG-TERM CARE.

(a) * * *

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(h) DURATION OF PROGRAMS.—*(1)* The authority of the Secretary to provide services under a pilot program under this section shall cease on the date that is three years after the date of the commencement of that pilot program.

(2) In the case of a veteran who is participating in a pilot program under this section as of the end of the three-year period applicable to that pilot program under paragraph (1), the Secretary may continue to provide to that veteran any of the services that could be provided under the pilot program. The authority to provide services to any veteran under the preceding sentence applies during the period beginning on the date specified in paragraph (1) with respect to that pilot program and ending on December 31, 2005.

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