

Public Law 108–422
108th Congress

An Act

To amend title 38, United States Code, to increase the authorization of appropriations for grants to benefit homeless veterans, to improve programs for management and administration of veterans' facilities and health care programs, and for other purposes.

Nov. 30, 2004
[H.R. 3936]

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Veterans Health Programs Improvement Act of 2004”.

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

- Sec. 1. Short title; table of contents.
Sec. 2. Reference to title 38, United States Code.

TITLE I—ASSISTANCE TO HOMELESS VETERANS

- Sec. 101. Authorization of appropriations.

TITLE II—VETERANS LONG-TERM CARE PROGRAMS

- Sec. 201. Assistance for hiring and retention of nurses at State veterans' homes.
Sec. 202. Treatment of Department of Veterans Affairs per diem payments to state homes for veterans.
Sec. 203. Extension of authority to provide care under long-term care pilot programs.
Sec. 204. Prohibition on collection of copayments for hospice care.

TITLE III—MEDICAL CARE

- Sec. 301. Sexual trauma counseling program.
Sec. 302. Centers for research, education, and clinical activities on complex multi-trauma associated with combat injuries.
Sec. 303. Enhancement of medical preparedness of Department of Veterans Affairs.

TITLE IV—MEDICAL FACILITIES MANAGEMENT AND ADMINISTRATION

Subtitle A—Major Medical Facility Leases

- Sec. 401. Major medical facility leases.
Sec. 402. Authorization of appropriations.
Sec. 403. Authority for long-term lease of certain lands of University of Colorado.

Subtitle B—Facilities Management

- Sec. 411. Department of Veterans Affairs Capital Asset Fund.
Sec. 412. Annual report to Congress on inventory of Department of Veterans Affairs historic properties.
Sec. 413. Authority to acquire and transfer real property for use for homeless veterans.
Sec. 414. Limitation on implementation of mission changes for specified Veterans Health Administration facilities.
Sec. 415. Authority to use project funds to construct or relocate surface parking incidental to a construction or nonrecurring maintenance project.
Sec. 416. Inapplicability of limitation on use of advance planning funds to authorized major medical facility projects.

Veterans Health
Programs
Improvement Act
of 2004.
38 USC 101 note.

- Sec. 417. Improvements to enhanced-use lease authority.
 Sec. 418. First option for Commonwealth of Kentucky on Department of Veterans Affairs Medical Center, Louisville, Kentucky.
 Sec. 419. Transfer of jurisdiction, General Services Administration property, Boise, Idaho.

Subtitle C—Designation of Facilities

- Sec. 421. Thomas E. Creek Department of Veterans Affairs Medical Center.
 Sec. 422. James J. Peters Department of Veterans Affairs Medical Center.
 Sec. 423. Bob Michel Department of Veterans Affairs Outpatient Clinic.
 Sec. 424. Charles Wilson Department of Veterans Affairs Outpatient Clinic.
 Sec. 425. Thomas P. Noonan, Jr. Department of Veterans Affairs Outpatient Clinic.

TITLE V—PERSONNEL ADMINISTRATION

- Sec. 501. Pilot program to study innovative recruitment tools to address nursing shortages at Department of Veterans Affairs health care facilities.
 Sec. 502. Technical correction to listing of certain hybrid positions in Veterans Health Administration.
 Sec. 503. Under Secretary for Health.

TITLE VI—OTHER MATTERS

- Sec. 601. Extension and codification of authority for recovery audits.
 Sec. 602. Inventory of medical waste management activities at Department of Veterans Affairs health care facilities.
 Sec. 603. Inclusion of all enrolled veterans among persons eligible to use canteens operated by Veterans' Canteen Service.
 Sec. 604. Annual reports on waiting times for appointments for specialty care.
 Sec. 605. Technical clarification.

SEC. 2. REFERENCE 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.

TITLE I—ASSISTANCE TO HOMELESS VETERANS

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Section 2013 is amended in paragraph (4) by striking “\$75,000,000” and inserting “\$99,000,000”.

TITLE II—VETERANS LONG-TERM CARE PROGRAMS

SEC. 201. ASSISTANCE FOR HIRING AND RETENTION OF NURSES AT STATE VETERANS' HOMES.

(a) IN GENERAL.—(1) Chapter 17 is amended by inserting after section 1743 the following new section:

“§ 1744. Hiring and retention of nurses: payments to assist States

“(a) PAYMENT PROGRAM.—The Secretary shall make payments to States under this section for the purpose of assisting State homes in the hiring and retention of nurses and the reduction of nursing shortages at State homes.

“(b) ELIGIBLE RECIPIENTS.—Payments to a State for a fiscal year under this section shall, subject to submission of an application, be made to any State that during that fiscal year—

“(1) receives per diem payments under this subchapter for that fiscal year; and

“(2) has in effect an employee incentive scholarship program or other employee incentive program at a State home designed to promote the hiring and retention of nursing staff and to reduce nursing shortages at that home.

“(c) USE OF FUNDS RECEIVED.—A State may use an amount received under this section only to provide funds for a program described in subsection (b)(2). Any program shall meet such criteria as the Secretary may prescribe. In prescribing such criteria, the Secretary shall take into consideration the need for flexibility and innovation.

“(d) LIMITATIONS ON AMOUNT OF PAYMENT.—(1) A payment under this section may not be used to provide more than 50 percent of the costs for a fiscal year of the employee incentive scholarship or other employee incentive program for which the payment is made.

“(2) The amount of the payment to a State under this section for any fiscal year is, for each State home in that State with a program described in subsection (b)(2), the amount equal to 2 percent of the amount of payments estimated to be made to that State, for that State home, under section 1741 of this title for that fiscal year.

“(e) APPLICATIONS.—A payment under this section for any fiscal year with respect to any State home may only be made based upon an application submitted by the State seeking the payment with respect to that State home. Any such application shall describe the nursing shortage at the State home and the employee incentive scholarship program or other employee incentive program described in subsection (c) for which the payment is sought.

“(f) SOURCE OF FUNDS.—Payments under this section shall be made from funds available for other payments under this subchapter.

“(g) DISBURSEMENT.—Payments under this section to a State home shall be made as part of the disbursement of payments under section 1741 of this title with respect to that State home.

“(h) USE OF CERTAIN RECEIPTS.—The Secretary shall require as a condition of any payment under this section that, in any case in which the State home receives a refund payment made by an employee in breach of the terms of an agreement for employee assistance that used funds provided under this section, the payment shall be returned to the State home’s incentive program account and credited as a non-Federal funding source.

“(i) ANNUAL REPORT FROM PAYMENT RECIPIENTS.—Any State home receiving a payment under this section for any fiscal year, shall, as a condition of the payment, be required to agree to provide to the Secretary a report setting forth in detail the use of funds received through the payment, including a descriptive analysis of how effective the incentive program has been on nurse staffing in the State home during that fiscal year. The report for any fiscal year shall be provided to the Secretary within 60 days of the close of the fiscal year and shall be subject to audit by the Secretary. Eligibility for a payment under this section for any later fiscal year is contingent upon the receipt by the Secretary of the annual report under this subsection for the previous fiscal year in accordance with this subsection.

“(j) REGULATIONS.—The Secretary shall prescribe regulations to carry out this section. The regulations shall include the establishment of criteria for the award of payments under this section.”.

(2) The table of sections at the beginning of such chapter is amended by inserting after section 1743 the following new item: “1744. Hiring and retention of nurses: payments to assist States.”.

38 USC 1744
note.

Procedures.
Deadline.

(b) IMPLEMENTATION.—The Secretary of Veterans Affairs shall implement section 1744 of title 38, United States Code, as added by subsection (a), as expeditiously as possible. The Secretary shall establish such interim procedures as necessary so as to ensure that payments are made to eligible States under that section commencing not later than June 1, 2005, notwithstanding that regulations under subsection (j) of that section may not have become final.

SEC. 202. TREATMENT OF DEPARTMENT OF VETERANS AFFAIRS PER DIEM PAYMENTS TO STATE HOMES FOR VETERANS.

Section 1741 is amended by adding at the end the following new subsection:

“(e) Payments to States pursuant to this section shall not be considered a liability of a third party, or otherwise be used to offset or reduce any other payment made to assist veterans.”.

SEC. 203. 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.”.

Applicability.

SEC. 204. PROHIBITION ON COLLECTION OF COPAYMENTS FOR HOSPICE CARE.

Section 1710B(c)(2) is amended—

(1) by striking “or” at the end of subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following new subparagraph (B):

“(B) to a veteran being furnished hospice care under this section; or”.

TITLE III—MEDICAL CARE

SEC. 301. SEXUAL TRAUMA COUNSELING PROGRAM.

(a) PERMANENT AUTHORITY FOR PROGRAM.—Section 1720D(a) is amended—

(1) in paragraph (1), by striking “During the period through December 31, 2004, the” and inserting “The”; and

(2) in paragraph (2), by striking “, during the period through December 31, 2004,”.

(b) EXTENSION TO COVER ACTIVE DUTY FOR TRAINING.—Such section is further amended by inserting “or active duty for training” in paragraph (1) before the period at the end.

SEC. 302. CENTERS FOR RESEARCH, EDUCATION, AND CLINICAL ACTIVITIES ON COMPLEX MULTI-TRAUMA ASSOCIATED WITH COMBAT INJURIES.

(a) IN GENERAL.—(1) Subchapter II of chapter 73 of title 38, United States Code, is amended by adding at the end the following new section:

“§ 7327. Centers for research, education, and clinical activities on complex multi-trauma associated with combat injuries

“(a) PURPOSE.—The purpose of this section is to provide for the improvement of the provision of health care services and related rehabilitation and education services to eligible veterans suffering from complex multi-trauma associated with combat injuries through—

“(1) the development of improved models and systems for the furnishing by the Department of health care, rehabilitation, and education services to veterans;

“(2) the conduct of research to support the provision of such services in accordance with the most current evidence on multi-trauma injuries; and

“(3) the education and training of health care personnel of the Department with respect to the provision of such services.

“(b) DESIGNATION OF CENTERS.—(1) The Secretary shall designate an appropriate number of cooperative centers for clinical care, consultation, research, and education activities on combat injuries.

“(2) Each center designated under paragraph (1) shall function as a center for—

“(A) research on the long-term effects of injuries sustained as a result of combat in order to support the provision of services for such injuries in accordance with the most current evidence on complex multi-trauma;

“(B) the development of rehabilitation methodologies for treating individuals with complex multi-trauma; and

“(C) the continuous and consistent coordination of care from the point of referral throughout the rehabilitation process and ongoing follow-up after return to home and community.

“(3) The Secretary shall designate one of the centers designated under paragraph (1) as the lead center for activities referred to in that paragraph. As the lead center for such activities, such center shall—

“(A) develop and provide periodic review of research priorities, and implement protocols, to ensure that projects contribute to the activities of the centers designated under paragraph (1);

“(B) oversee the coordination of the professional and technical activities of such centers to ensure the quality and validity of the methodologies and statistical services for research project leaders;

“(C) develop and ensure the deployment of an efficient and cost-effective data management system for such centers;

“(D) develop and distribute educational materials and products to enhance the evaluation and care of individuals with combat injuries by medical care providers of the Department who are not specialized in the assessment and care of complex multi-trauma;

“(E) develop educational materials for individuals suffering from combat injuries and for their families; and

“(F) serve as a resource for the clinical and research infrastructure of such centers by disseminating clinical outcomes and research findings to improve clinical practice.

“(4) The Secretary shall designate centers under paragraph (1) upon the recommendation of the Under Secretary for Health.

“(5) The Secretary may designate a center under paragraph (1) only if the center meets the requirements of subsection (c).

“(c) REQUIREMENTS FOR CENTERS.—To be designated as a center under this section, a facility shall—

“(1) be a regional lead center for the care of traumatic brain injury;

“(2) be located at a tertiary care medical center and have on-site availability of primary and subspecialty medical services relating to complex multi-trauma;

“(3) have, or have the capacity to develop, the capability of managing impairments associated with combat injuries;

“(4) be affiliated with a school of medicine;

“(5) have, or have experience with, participation in clinical research trials;

“(6) provide amputation care and rehabilitation;

“(7) have pain management programs;

“(8) provide comprehensive brain injury rehabilitation; and

“(9) provide comprehensive general rehabilitation.

“(d) ADDITIONAL RESOURCES.—The Secretary shall provide each center designated under this section such resources as the Secretary determines to be required by such center to achieve adequate capability of managing individuals with complex multi-trauma, including—

“(1) the upgrading of blind rehabilitation services by employing or securing the services of blind rehabilitation specialists;

“(2) employing or securing the services of occupational therapists with blind rehabilitation training;

“(3) employing or securing the services of additional mental health services providers; and

“(4) employing or securing additional rehabilitation nursing staff to meet care needs.

“(e) COOPERATION WITH DEPARTMENT OF DEFENSE.—(1) The Secretary of Veterans Affairs may assist the Secretary of Defense in the care of members of the Armed Forces with complex multi-trauma at military treatment facilities by—

“(A) making available, in a manner that the Secretary of Veterans Affairs considers appropriate, certified rehabilitation registered nurses of the Department of Veterans Affairs to such facilities to assess and coordinate the care of such members; and

“(B) making available, in a manner that the Secretary of Veterans Affairs considers appropriate, blind rehabilitation

specialists of the Department of Veterans Affairs to such facilities to consult with the medical staff of such facilities on the special needs of such members who have visual impairment as a consequence of combat injury.

“(2) Assistance shall be provided under this subsection through agreements for the sharing of health-care resources under section 8111 of this title.

“(f) AWARD OF FUNDING.—Centers designated under this section may compete for the award of funding from amounts appropriated for the Department for medical and prosthetics research.

“(g) DISSEMINATION OF INFORMATION.—(1) The Under Secretary for Health shall ensure that information produced by the centers designated under this section that may be useful for other activities of the Veterans Health Administration is disseminated throughout the Administration.

“(2) Information shall be disseminated under this subsection 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.

“(h) NATIONAL OVERSIGHT.—The Under Secretary for Health shall designate an appropriate officer to oversee the operation of the centers designated under this section and provide for periodic evaluation of the centers.

“(i) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated to the Department of Veterans Affairs for the centers designated under this section amounts as follows:

“(A) \$7,000,000 for fiscal year 2005.

“(B) \$8,000,000 for each of fiscal years 2006 through 2008.

“(2) In addition to amounts authorized to be appropriated by paragraph (1) for a fiscal year, the Under Secretary for Health may allocate to each center designated under this section, from other funds authorized to be appropriated for such fiscal year for the Department generally for medical and for medical and prosthetic research, such amounts as the Under Secretary for Health determines appropriate to carry out the purposes of this section.”

(2) The table of sections at the beginning of chapter 73 is amended by inserting after the item relating to section 7326 the following new item:

“7327. Centers for research, education, and clinical activities on complex multi-trauma associated with combat injuries.”

(b) DESIGNATION OF CENTERS.—The Secretary of Veterans Affairs shall designate the centers for research, education, and clinical activities on complex multi-trauma associated with combat injuries required by section 7327 of title 38, United States Code (as added by subsection (a)), not later than 120 days after the date of the enactment of this Act.

(c) ANNUAL REPORTS.—(1) Not later than eighteen months after the date of the designation of centers for research, education, and clinical activities on complex multi-trauma associated with combat injuries required by section 7327 of title 38, United States Code (as so added), and annually thereafter through 2008, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the status and activities of such centers during the one-year period beginning on the date of such designation, for the first such report, and for successive one-year periods, for subsequent reports.

Deadline.
38 USC 7327
note.

(2) Each such report shall include, for the period covered by such report, the following:

(A) A description of the activities carried out at each center, and the funding provided for such activities.

(B) A description of any advances made in the participating programs of each center in research, education, training, and clinical activities on complex multi-trauma associated with combat injuries.

(C) A description of the actions taken by the Under Secretary for Health pursuant to subsection (g) of that section (as so added) to disseminate throughout the Veterans Health Administration information derived from such activities.

SEC. 303. ENHANCEMENT OF MEDICAL PREPAREDNESS OF DEPARTMENT OF VETERANS AFFAIRS.

Establishment.
38 USC 7328
note.

Deadline.

Deadlines.
38 USC 7328
note.

(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 7328 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.—(1) Subchapter II of chapter 73 is amended by inserting after section 7327, as added by section 302(a)(1) of this Act, a new section with—

(A) a heading as follows:

“§ 7328. Medical preparedness centers”; and

(B) 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 prosthetic research account such amounts as the Under Secretary determines necessary in order to carry out the purposes of this section.”.

(2) The table of sections at the beginning of chapter 73 is amended by inserting after the item relating to section 7327, as added by section 302(a)(2) of this Act, the following new item:

“7328. Medical preparedness centers.”.

TITLE IV—MEDICAL FACILITIES MANAGEMENT AND ADMINISTRATION

Subtitle A—Major Medical Facility Leases

SEC. 401. MAJOR MEDICAL FACILITY 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.

SEC. 402. 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 section 401.

SEC. 403. AUTHORITY FOR LONG-TERM 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 Fitzsimmons Campus of the University of Colorado for purposes of a medical facility (as that term is defined in section 8101 of title 38, United States Code) for a period of up to 75 years.

Subtitle B—Facilities Management

SEC. 411. 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; Department of Veterans Affairs 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, 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 through 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

Expiration date.

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, or 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 fiscal 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 fiscal 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; Department of Veterans Affairs 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)).

38 USC 8118
note.

(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 “Department of Veterans Affairs Capital Asset Fund established under section 8118 of this title”.

(f) CONTINGENT EFFECTIVENESS.—Subsection (d) and the amendments made by subsection (c) 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.

(g) ANNUAL UPDATE.—Following a certification under subsection (f), the Secretary shall submit to Congress an annual update on that certification.

Certification.
Effective date.
38 USC 1710B
note.

38 USC 1710B
note.

SEC. 412. 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, if any, 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. 413. AUTHORITY TO ACQUIRE AND TRANSFER REAL PROPERTY FOR USE FOR HOMELESS VETERANS.

(a) AUTHORITY.—Upon identification of a parcel of real property meeting the description in subsection (b), the Secretary of Veterans

Affairs may acquire that property (with the structures and improvements thereon) or, in the case of property owned by the United States and administered by another Federal department or agency, may accept administrative jurisdiction over that property, with the expectation of promptly transferring that property to a homeless assistance provider identified under paragraph (2) of subsection (b), subject to the condition that the primary purpose for which the property shall be used is to provide housing for homeless veterans.

(b) SPECIFIED PROPERTY.—A parcel of real property referred to in subsection (a) is a parcel in the District of Columbia—

(1) that the Secretary determines to be suitable for use for housing for homeless veterans; and

(2) for which there is an identified homeless assistance provider that is prepared to acquire the property for such purpose from the Secretary promptly upon the acquisition of the property by the Secretary.

(c) TRANSFER OF PROPERTY.—Upon acquiring real property under subsection (a), the Secretary shall immediately transfer all right, title, and interest of the United States (other than the reversionary interest retained under subsection (e)) to the homeless assistance provider identified under subsection (b)(2). Such transfer shall be for such consideration as the Secretary determines appropriate.

(d) TERMS AND CONDITIONS.—The acquisition and transfer of real property under this section shall be made upon such terms and conditions as the Secretary may specify not inconsistent with other applicable provisions of law.

(e) REVERTER.—The terms of the transfer shall provide that if the property is no longer used for the purpose for which conveyed by the Secretary, title to the property shall revert to the United States.

SEC. 414. LIMITATION ON IMPLEMENTATION OF MISSION CHANGES FOR SPECIFIED VETERANS HEALTH ADMINISTRATION FACILITIES.

(a) LIMITATION.—The Secretary of Veterans Affairs may not implement a mission change for a medical facility of the Department of Veterans Affairs specified in subsection (c) until—

(1) the Secretary submits to the Committees on Veterans' Affairs of the Senate and House of Representatives a written notice of the mission change; and

(2) the period prescribed by subsection (b) has elapsed.

(b) CONGRESSIONAL REVIEW PERIOD.—(1) The period referred to in subsection (a)(2) is the period beginning on the date of the receipt of the notice under subsection (a)(1) by the committees specified in that subsection and ending on the later of—

(A) the end of the 60-day period beginning on the date on which the notice is received by those committees; or

(B) the end of a period of 30 days of continuous session of Congress beginning on the date on which the notification is received by those committees or, if either House of Congress is not in session on such date, the first day after such date that both Houses of Congress are in session.

(2) For the purposes of paragraph (1)(B)—

(A) the continuity of a session of Congress is broken only by an adjournment of Congress sine die; and

Notice.

(B) any day on which either House is not in session because of an adjournment of more than three days to a day certain is excluded in the computation of any period of time in which Congress is in continuous session.

(c) SPECIFIED FACILITIES.—A facility referred to in subsection (a) as being specified in this subsection is any of the following facilities of the Department of Veterans Affairs:

(1) The Department of Veterans Affairs medical centers in Boston, Massachusetts.

(2) The Department of Veterans Affairs medical centers in New York City, New York.

(3) The Department of Veterans Affairs medical center in Big Spring, Texas.

(4) The Carl Vinson Department of Veterans Affairs Medical Center, Dublin, Georgia.

(5) The Department of Veterans Affairs medical center in Montgomery, Alabama.

(6) The Department of Veterans Affairs medical center in Louisville, Kentucky.

(7) The Department of Veterans Affairs medical center in Muskogee, Oklahoma, and the outpatient clinic in Tulsa, Oklahoma.

(8) The John J. Pershing Department of Veterans Affairs Medical Center, Poplar Bluff, Missouri.

(9) The Department of Veterans Affairs medical center in Ft. Wayne, Indiana.

(10) The Department of Veterans Affairs Medical Center in Waco, Texas.

(11) The Jonathan M. Wainwright Department of Veterans Affairs Medical Center, Walla Walla, Washington.

(d) COVERED MISSION CHANGES.—For purposes of this section, a mission change for a medical facility shall consist of any of the following:

(1) Closure of the facility.

(2) Consolidation of the facility.

(3) An administrative reorganization of the facility covered by section 510(b) of title 38, United States Code.

(e) REQUIRED CONTENT OF NOTICE OF MISSION CHANGE.—Written notice of a mission change for a medical facility under subsection (a) shall include the following:

(1) An assessment of the effect of the mission change on the population of veterans served by the facility.

(2) A description of the availability and quality of health care, including long-term care, mental health care, and substance abuse programs, available in the area served by the facility.

(3) An assessment of the effect of the mission change on the economy of the community in which the facility is located.

(4) An analysis of any alternatives to the mission change proposed by—

(A) the community in which the facility is located;

(B) organizations recognized by the Secretary under section 5902 of title 38, United States Code;

(C) organizations that represent Department employees in such community; or

(D) the Department.

(f) **MEDICAL FACILITY CONSOLIDATION.**—For the purposes of subsection (d)(2), the term “consolidation” means an action that closes one or more medical facilities within a geographic service area for the purpose of relocating those activities to another medical facility or facilities.

(g) **COORDINATION OF PROVISIONS.**—In the case of a mission change covered by subsection (a) that is also an administrative reorganization covered by section 510(b) of title 38, United States Code, both this section and such section 510(b) shall apply with respect to the implementation of that mission change.

Applicability.

SEC. 415. 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. 416. 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. 417. IMPROVEMENTS TO ENHANCED-USE LEASE AUTHORITY.

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

SEC. 418. FIRST OPTION FOR COMMONWEALTH OF KENTUCKY ON DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER, LOUISVILLE, KENTUCKY.

(a) **REQUIREMENT.**—Upon determining to convey, lease, or otherwise dispose of the Department of Veterans Affairs Medical Center, Louisville, Kentucky, or any portion thereof, the Secretary of Veterans Affairs shall engage in negotiations for the conveyance, lease, or other disposal of the Medical Center or portion thereof solely with the Commonwealth of Kentucky.

(b) **DURATION OF REQUIREMENT.**—The requirement for negotiations under subsection (a) shall remain in effect for one year after the date of the determination referred to in that subsection.

(c) **SCOPE OF NEGOTIATIONS.**—The negotiations under subsection (a) shall address the use of the medical center referred to in subsection (a), or portion thereof, by the Commonwealth of Kentucky for the primary purpose of the provision of services for veterans and related activities, including use for a State veterans’ home.

SEC. 419. TRANSFER OF JURISDICTION, GENERAL SERVICES ADMINISTRATION PROPERTY, BOISE, IDAHO.

(a) **TRANSFER.**—The Administrator of General Services shall transfer to the Secretary of Veterans Affairs, under such terms

and conditions as the Administrator and the Secretary agree, jurisdiction, custody, and control over the parcel of real property, including any improvements thereon, consisting of approximately 2.3 acres located at the General Services Administration facility immediately north of the Army Reserve facility in Boise, Idaho.

(b) UTILIZATION.—The Secretary of Veterans Affairs shall utilize the property transferred under subsection (a) for purposes relating to the delivery of benefits to veterans.

Subtitle C—Designation of Facilities

Texas. **SEC. 421. THOMAS E. CREEK DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER.**

(a) IN GENERAL.—The Department of Veterans Affairs medical center in Amarillo, Texas, shall after the date of the enactment of this Act be known and designated as the “Thomas E. Creek Department of Veterans Affairs Medical Center”.

(b) REFERENCES.—Any reference in any law, regulation, map, document, record, or other paper of the United States to the medical center referred to in subsection (a) shall be considered to be a reference to the Thomas E. Creek Department of Veterans Affairs Medical Center.

New York. **SEC. 422. JAMES J. PETERS DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER.**

(a) IN GENERAL.—The Department of Veterans Affairs medical center in the Bronx, New York, shall after the date of the enactment of this Act be known and designated as the “James J. Peters Department of Veterans Affairs Medical Center”.

(b) REFERENCES.—Any reference in any law, regulation, map, document, record, or other paper of the United States to the medical center referred to in subsection (a) shall be considered to be a reference to the James J. Peters Department of Veterans Affairs Medical Center.

Illinois. **SEC. 423. BOB MICHEL DEPARTMENT OF VETERANS AFFAIRS OUTPATIENT CLINIC.**

(a) IN GENERAL.—The Department of Veterans Affairs outpatient clinic located in Peoria, Illinois, shall after the date of the enactment of this Act be known and designated as the “Bob Michel Department of Veterans Affairs Outpatient Clinic”.

(b) REFERENCES.—Any reference in any law, regulation, map, document, record, or other paper of the United States to the outpatient clinic referred to in subsection (a) shall be considered to be a reference to the Bob Michel Department of Veterans Affairs Outpatient Clinic.

Texas. **SEC. 424. CHARLES WILSON DEPARTMENT OF VETERANS AFFAIRS OUTPATIENT CLINIC.**

(a) IN GENERAL.—The Department of Veterans Affairs outpatient clinic located in Lufkin, Texas, shall after the date of the enactment of this Act be known and designated as the “Charles Wilson Department of Veterans Affairs Outpatient Clinic”.

(b) REFERENCES.—Any reference in any law, regulation, map, document, record, or other paper of the United States to the outpatient clinic referred to in subsection (a) shall be considered to

be a reference to the Charles Wilson Department of Veterans Affairs Outpatient Clinic.

SEC. 425. THOMAS P. NOONAN, JR. DEPARTMENT OF VETERANS AFFAIRS OUTPATIENT CLINIC. New York.

(a) **IN GENERAL.**—The Department of Veterans Affairs outpatient clinic in Sunnyside, Queens, New York, shall after the date of the enactment of this Act be known and designated as the “Thomas P. Noonan, Jr. Department of Veterans Affairs Outpatient Clinic”.

(b) **REFERENCES.**—Any reference in any law, map, regulation, document, paper, or other record of the United States to the outpatient clinic referred to in subsection (a) shall be considered to be a reference to the Thomas P. Noonan, Jr. Department of Veterans Affairs Outpatient Clinic.

TITLE V—PERSONNEL ADMINISTRATION

SEC. 501. PILOT PROGRAM TO STUDY INNOVATIVE RECRUITMENT TOOLS TO ADDRESS NURSING SHORTAGES AT DEPARTMENT OF VETERANS AFFAIRS HEALTH CARE FACILITIES. 38 USC 7451 note.

(a) **PILOT PROGRAM.**—(1) Not later than 90 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall designate a health care service region, or a section within such a region, in which health care facilities of the Department of Veterans Affairs are adversely affected by a shortage of qualified nurses. Deadline.

(2) The Secretary shall conduct a pilot program in the region or section designated under paragraph (1) to determine the effectiveness of the use of innovative human capital tools and techniques in the recruitment of qualified nurses for positions at Department health care facilities in such region or section and for the retention of nurses at such facilities. In carrying out the pilot program, the Secretary shall enter into a contract with a private sector entity for services under the pilot program for recruitment of qualified nurses.

(b) **PRIVATE SECTOR RECRUITMENT PRACTICES.**—For purposes of the pilot program under this section, the Secretary shall identify and use recruitment practices that have proven effective for placing qualified individuals in positions that are difficult to fill due to shortages of qualified individuals or other factors. Recruitment practices to be reviewed by the Secretary for use in the pilot program shall include—

- (1) employer branding and interactive advertising strategies;
- (2) Internet technologies and automated staffing systems; and
- (3) the use of recruitment, advertising, and communication agencies.

(c) **STREAMLINED HIRING PROCESS.**—In carrying out the pilot program under this section, the Secretary shall, at health care facilities of the Department in the region or section in which the pilot program is conducted, revise procedures and systems for selecting and hiring qualified nurses to reduce the length of the hiring process. If the Secretary identifies measures to streamline

and automate the hiring process that can only be implemented if authorized by law, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives recommendations for such changes in law as may be necessary to enable such measures to be implemented.

(d) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the extent to which the pilot program achieved the goal of improving the recruitment and retention of nurses in Department of Veterans Affairs health care facilities.

SEC. 502. TECHNICAL CORRECTION TO LISTING OF CERTAIN HYBRID POSITIONS IN VETERANS HEALTH ADMINISTRATION.

Section 7401(3) is amended—

(1) by striking “and dental technologists” and inserting “technologists, dental hygienists, dental assistants”; and

(2) by striking “technicians, therapeutic radiologic technicians, and social workers” and inserting “technologists, therapeutic radiologic technologists, social workers, blind rehabilitation specialists, and blind rehabilitation outpatient specialists”.

SEC. 503. UNDER SECRETARY FOR HEALTH.

Section 305(a)(2) is amended—

(1) in the matter preceding subparagraph (A), by striking “shall be a doctor of medicine and”; and

(2) in subparagraph (A), by striking “and in health-care” and inserting “or in health-care”.

TITLE VI—OTHER MATTERS

SEC. 601. EXTENSION AND CODIFICATION OF AUTHORITY FOR RECOVERY AUDITS.

Section 1703 is amended by adding at the end the following new subsection:

Contracts.

“(d)(1) The Secretary shall conduct a program of recovery audits for fee basis contracts and other medical services contracts for the care of veterans under this section, and for beneficiaries under sections 1781, 1782, and 1783 of this title, with respect to overpayments resulting from processing or billing errors or fraudulent charges in payments for non-Department care and services. The program shall be conducted by contract.

“(2) Amounts collected, by setoff or otherwise, as the result of an audit under the program conducted under this subsection shall be available for the purposes for which funds are currently available to the Secretary for medical care and for payment to a contractor of a percentage of the amount collected as a result of an audit carried out by the contractor.

“(3) The Secretary shall allocate all amounts collected under this subsection with respect to a designated geographic service area of the Veterans Health Administration, net of payments to the contractor, to that region.

Termination date.

“(4) The authority of the Secretary under this subsection terminates on September 30, 2008.”.

SEC. 602. INVENTORY OF MEDICAL WASTE MANAGEMENT ACTIVITIES AT DEPARTMENT OF VETERANS AFFAIRS HEALTH CARE FACILITIES. 38 USC 8110 note.

(a) **INVENTORY.**—The Secretary of Veterans Affairs shall establish and maintain a national inventory of medical waste management activities in the health care facilities of the Department of Veterans Affairs. The inventory shall include the following:

(1) A statement of the current national policy of the Department on managing and disposing of medical waste, including regulated medical waste in all its forms.

(2) A description of the program of each geographic service area of the Department to manage and dispose of medical waste, including general medical waste and regulated medical waste, with a description of the primary methods used in those programs and the associated costs of those programs, with cost information shown separately for in-house costs (including full-time equivalent employees) and contract costs.

(b) **REPORT.**—Not later than June 30, 2005, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on medical waste management activities in the facilities of the Department of Veterans Affairs. The report shall include the following:

(1) The inventory established under subsection (a), including all the matters specified in that subsection.

(2) A listing of each violation of medical waste management and disposal regulations reported at any health care facility of the Department over the preceding five years by any Federal or State agency, along with an explanation of any remedial or other action taken by the Secretary in response to each such reported violation.

(3) A description of any plans to modernize, consolidate, or otherwise improve the management of medical waste and disposal programs at health care facilities of the Department, including the projected costs associated with such plans and any barriers to achieving goals associated with such plans.

(4) An assessment or evaluation of the available methods of disposing of medical waste and identification of which of those methods are more desirable from an environmental perspective in that they would be least likely to result in contamination of air or water or otherwise cause future cleanup problems.

SEC. 603. 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. 604. ANNUAL REPORTS ON WAITING TIMES FOR APPOINTMENTS FOR SPECIALTY CARE.

(a) **ANNUAL REPORTS.**—Not later than January 31 each year through 2007, the Secretary of Veterans Affairs shall submit to the Committees on Veterans’ Affairs of the Senate and the House of Representatives a report on waiting times for appointments for specialty health care from the Department of Veterans Affairs under chapter 17 of title 38, United States Code, during the preceding year.

(b) **REPORT ELEMENTS.**—Each report under subsection (a) shall specify, for the year covered by the report, the following:

(1) A tabulation of the number of veterans whose appointment for specialty health care furnished by the Department was more than three months after the date of the scheduling of such appointment, and the waiting times of such veterans for such appointments, for each category of specialty care furnished by the Department, broken out by Veterans Integrated Service Network.

(2) An identification of the categories of specialty care furnished by the Department for which there were delays of more than three months between the scheduling date of appointments and appointments in each Veterans Integrated Service Network.

(3) A discussion of the reasons for the delays identified under paragraph (2) for each category of care for each Veterans Integrated Service Network so identified, including lack of personnel, financial resources, or other resources.

(c) **CERTIFICATION ON REPORT INFORMATION.**—The Comptroller General of the United States shall certify to the committees of Congress referred to in subsection (a) whether or not each report under this section is accurate.

SEC. 605. TECHNICAL CLARIFICATION.

Section 8111(d)(2) is amended by inserting before the period at the end of the last sentence the following: “and shall be available for any purpose authorized by this section”.

Approved November 30, 2004.

LEGISLATIVE HISTORY—H.R. 3936 (S. 2485):

HOUSE REPORTS: No. 108-574, Pt. 1 (Comm. on Veterans' Affairs).

SENATE REPORTS: No. 108-358 accompanying S. 2485 (Comm. on Veterans' Affairs).

CONGRESSIONAL RECORD, Vol. 150 (2004):

July 20, considered and passed House.

Oct. 9, considered and passed Senate, amended, in lieu of S. 2485.

Nov. 17, House concurred in Senate amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 40 (2004):

Dec. 1, Presidential statement.