

Union Calendar No. 403

108TH CONGRESS
2^D SESSION

H.R. 4768

[Report No. 108-663]

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.

IN THE HOUSE OF REPRESENTATIVES

JULY 7, 2004

Mr. SIMMONS (for himself, Mr. RODRIGUEZ, Mr. SMITH of New Jersey, Mr. EVANS, Mr. STEARNS, Mr. MILLER of Florida, Mr. BEAUPREZ, and Mr. FILNER) introduced the following bill; which was referred to the Committee on Veterans' Affairs

SEPTEMBER 8, 2004

Additional sponsor: Mr. TURNER of Ohio

SEPTEMBER 8, 2004

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on July 7, 2004]

A BILL

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.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*
 3 **SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38,**
 4 **UNITED STATES CODE; TABLE OF CONTENTS.**

5 (a) *SHORT TITLE.*—*This Act may be cited as the “Vet-*
 6 *erans Health Programs and Facilities Enhancement Act of*
 7 *2004”.*

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

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

Sec. 1. Short title; references to title 38, United States Code; table of contents.

TITLE I—MEDICAL FACILITIES MANAGEMENT

Sec. 101. Major medical facility leases.

Sec. 102. Department of Veterans Affairs Capital Asset Fund.

Sec. 103. Annual report to Congress on inventory of Department of Veterans Af-
fairs historic properties.

Sec. 104. Authority to use project funds to construct or relocate surface parking
incidental to a construction or nonrecurring maintenance
project.

Sec. 105. Inapplicability of limitation on use of advance planning funds to au-
thorized major medical facility projects.

Sec. 106. Improvement in enhanced-use lease authorities.

Sec. 107. Extension of authority to provide care under long-term care pilot pro-
grams.

TITLE II—OTHER MATTERS

Sec. 201. Inclusion of all enrolled veterans among persons eligible to use canteens operated by Veterans' Canteen Service.

Sec. 202. Enhancement of medical preparedness of Department.

1 **TITLE I—MEDICAL FACILITIES**
 2 **MANAGEMENT**

3 **SEC. 101. MAJOR MEDICAL FACILITY LEASES.**

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

8 *(1) Wilmington, North Carolina, Outpatient*
 9 *Clinic, \$1,320,000.*

10 *(2) Greenville, North Carolina, Outpatient Clin-*
 11 *ic, \$1,220,000.*

12 *(3) Norfolk, Virginia, Outpatient Clinic,*
 13 *\$1,250,000.*

14 *(4) Summerfield, Florida, Marion County Out-*
 15 *patient Clinic, \$1,230,000.*

16 *(5) Knoxville, Tennessee, Outpatient Clinic,*
 17 *\$850,000.*

18 *(6) Toledo, Ohio, Outpatient Clinic, \$1,200,000.*

19 *(7) Crown Point, Indiana, Outpatient Clinic,*
 20 *\$850,000.*

21 *(8) Fort Worth, Texas, Tarrant County Out-*
 22 *patient Clinic, \$3,900,000.*

1 (9) *Plano, Texas, Collin County Outpatient*
2 *Clinic, \$3,300,000.*

3 (10) *San Antonio, Texas, Northeast Central*
4 *Bexar County Outpatient Clinic, \$1,400,000.*

5 (11) *Corpus Christi, Texas, Outpatient Clinic,*
6 *\$1,200,000.*

7 (12) *Harlingen, Texas, Outpatient Clinic,*
8 *\$650,000.*

9 (13) *Denver, Colorado, Health Administration*
10 *Center, \$1,950,000.*

11 (14) *Oakland, California, Outpatient Clinic,*
12 *\$1,700,000.*

13 (15) *San Diego, California, North County Out-*
14 *patient Clinic, \$1,300,000.*

15 (16) *San Diego, California, South County, Out-*
16 *patient Clinic, \$1,100,000.*

17 (b) *AUTHORIZATION OF APPROPRIATIONS.—There is*
18 *authorized to be appropriated to the Secretary of Veterans*
19 *Affairs for fiscal year 2005 for the Medical Care account,*
20 *\$24,420,000 for the leases authorized in subsection (a).*

21 (c) *AUTHORITY FOR LEASE OF CERTAIN LANDS OF*
22 *UNIVERSITY OF COLORADO.—Notwithstanding section 8103*
23 *of title 38, United States Code, the Secretary of Veterans*
24 *Affairs may enter into a lease for real property located at*

1 *the Fitzsimons Campus of the University of Colorado for*
2 *a period up to 75 years.*

3 **SEC. 102. DEPARTMENT OF VETERANS AFFAIRS CAPITAL**
4 **ASSET FUND.**

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

8 **“§8118. Authority for transfer of real property; Cap-**
9 **ital Asset Fund**

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

1 *title, and interest to the property shall revert to the United*
2 *States.*

3 “(2) *The Secretary may exercise the authority pro-*
4 *vided by this section notwithstanding sections 521, 522 and*
5 *541–545 of title 40. Any such transfer shall be in accord-*
6 *ance with this section and section 8122 of this title.*

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

9 “(4) *The Secretary may enter into partnerships or*
10 *agreements with public or private entities dedicated to his-*
11 *toric preservation to facilitate the transfer, leasing, or*
12 *adaptive use of structures or properties specified in sub-*
13 *section (b)(3)(D).*

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

17 “(b)(1) *There is established in the Treasury of the*
18 *United States a revolving fund to be known as the Depart-*
19 *ment of Veterans Affairs Capital Asset Fund (hereinafter*
20 *in this section referred to as the ‘Fund’). Amounts in the*
21 *Fund shall remain available until expended.*

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

1 “(3) *To the extent provided in advance in appropri-*
2 *tions Acts, amounts in the Fund may be expended for the*
3 *following purposes:*

4 “(A) *Costs associated with the transfer of real*
5 *property under this section, including costs of demoli-*
6 *tion, environmental remediation, maintenance and*
7 *repair, improvements to facilitate the transfer, and*
8 *administrative expenses.*

9 “(B) *Costs, including costs specified in subpara-*
10 *graph (A), associated with future transfers of prop-*
11 *erty under this section.*

12 “(C) *Costs associated with enhancing medical*
13 *care services to veterans by improving, renovating, re-*
14 *placing, updating, and establishing patient care fa-*
15 *ilities through construction projects to be carried out*
16 *for an amount less than the amount specified in*
17 *8104(a)(3)(A) for a major medical facility project.*

18 “(D) *Costs, including costs specified in subpara-*
19 *graph (A), associated with the transfer, lease or*
20 *adaptive use of a structure or other property under*
21 *the jurisdiction of the Secretary that is listed on the*
22 *National Register of Historic Places.*

23 “(c) *The Secretary shall include in the budget justifica-*
24 *tion materials submitted to Congress for any fiscal year in*

1 *support of the President’s budget for that year for the De-*
2 *partment specification of the following:*

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

6 “(2) *All transfers completed under this section*
7 *during the preceding fiscal year and completed and*
8 *scheduled to be completed during the year during*
9 *which the budget is submitted.*

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

14 (2) *The table of sections at the beginning of such chap-*
15 *ter is amended by inserting after the item relating to section*
16 *8117 the following new item:*

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

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

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

24 (2) *The table of sections at the beginning of chapter*
25 *81 is amended by striking the item relating to section 8116.*

1 (d) *TRANSFER OF UNOBLIGATED BALANCES TO CAP-*
2 *ITAL ASSET FUND.*—*Any unobligated balances in the nurs-*
3 *ing home revolving fund under section 8116 of title 38,*
4 *United States Code, as of the date of the enactment of this*
5 *Act shall be deposited in the Department of Veterans Affairs*
6 *Capital Asset Fund established under section 8118 of title*
7 *38, United States Code (as added by subsection (a)).*

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

11 “(2) *Except as provided in paragraph (3), the Sec-*
12 *retary may not during any fiscal year transfer to any other*
13 *department or agency of the United States or to any other*
14 *entity real property that is owned by the United States and*
15 *administered by the Secretary unless the proposed transfer*
16 *is described in the budget submitted to Congress pursuant*
17 *to section 1105 of title 31 for that fiscal year.”.*

18 (2) *Section 8122(d) is amended—*

19 (A) *by inserting “(1)” before “Real property”;*
20 *and*

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

23 “(2) *The Secretary may transfer real property under*
24 *this section, or under section 8118 of this title if the Sec-*
25 *retary—*

1 “(A) places a notice in the real estate section of
2 local newspapers and in the Federal Register of the
3 Secretary’s intent to transfer that real property (in-
4 cluding land, structures, and equipment associated
5 with the property);

6 “(B) holds a public hearing;

7 “(C) provides notice to the Administrator of
8 General Services of the Secretary’s intention to trans-
9 fer that real property and waits for 30 days to elapse
10 after providing that notice; and

11 “(D) after such 30-day period has elapsed, noti-
12 fies the congressional veterans’ affairs committees of
13 the Secretary’s intention to dispose of the property
14 and waits for 60 days to elapse from the date of that
15 notice.”.

16 (3) Section 8164(a) is amended by inserting “8118 or”
17 after “rather than under section”.

18 (4) Section 8165(a)(2) is amended by striking “nurs-
19 ing home revolving fund” and inserting “Capital Asset
20 Fund established under section 8118 of this title”.

21 (f) *CONTINGENT EFFECTIVENESS.*—The amendments
22 made by this section shall take effect at the end of the 30-
23 day period beginning on the date on which the Secretary
24 of Veterans Affairs certifies to Congress that the Secretary
25 is in compliance with subsection (b) of section 1710B of

1 *title 38, United States Code. Such certification shall dem-*
2 *onstrate a plan for, and commitment to, ongoing compli-*
3 *ance with the requirements of that subsection.*

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

9 **SEC. 103. ANNUAL REPORT TO CONGRESS ON INVENTORY**
10 **OF DEPARTMENT OF VETERANS AFFAIRS HIS-**
11 **TORIC PROPERTIES.**

12 (a) *IN GENERAL.*—*Not later than December 15 of*
13 *2005, 2006, and 2007, the Secretary of Veterans Affairs*
14 *shall submit to the Committees on Veterans’ Affairs of the*
15 *Senate and House of Representatives a report on the his-*
16 *toric properties administered or controlled by the Secretary.*

17 (b) *INITIAL REPORT.*—*In the initial report under sub-*
18 *section (a), the Secretary shall set forth a complete inven-*
19 *tory of the historic structures and property under the juris-*
20 *isdiction of the Secretary. The report shall include a descrip-*
21 *tion and classification of each such property based upon*
22 *historical nature, current physical condition, and potential*
23 *for transfer, leasing, or adaptive use.*

24 (c) *SUBSEQUENT REPORTS.*—*In reports under sub-*
25 *section (a) after the initial report, the Secretary shall pro-*

1 *vide an update of the status of each property identified in*
2 *the initial report, with the proposed and actual disposition*
3 *of each property. Each such report shall include any rec-*
4 *ommendation of the Secretary for legislation to enhance the*
5 *transfer, leasing or adaptive use of such properties.*

6 **SEC. 104. AUTHORITY TO USE PROJECT FUNDS TO CON-**
7 **STRUCT OR RELOCATE SURFACE PARKING IN-**
8 **CIDENTAL TO A CONSTRUCTION OR NON-**
9 **RECURRING MAINTENANCE PROJECT.**

10 *Section 8109 is amended by adding at the end the fol-*
11 *lowing new subsection:*

12 *“(j) Funds in a construction account or capital ac-*
13 *count that are available for a construction project or a non-*
14 *recurring maintenance project may be used for the construc-*
15 *tion or relocation of a surface parking lot incidental to that*
16 *project.”.*

17 **SEC. 105. INAPPLICABILITY OF LIMITATION ON USE OF AD-**
18 **VANCE PLANNING FUNDS TO AUTHORIZED**
19 **MAJOR MEDICAL FACILITY PROJECTS.**

20 *Section 8104 is amended by adding at the end the fol-*
21 *lowing new subsection:*

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

1 **SEC. 106. IMPROVEMENT IN ENHANCED-USE LEASE AU-**
2 **THORITIES.**

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

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

7 *Subsection (h) of section 102 of the Veterans Millen-*
8 *nium Health Care and Benefits Act (38 U.S.C. 1710B note)*
9 *is amended—*

10 *(1) by inserting “(1)” before “The authority of”;*
11 *and*

12 *(2) by adding at the end the following new para-*
13 *graph:*

14 *“(2) In the case of a veteran who is participating in*
15 *a pilot program under this section as of the end of the three-*
16 *year period applicable to that pilot program under para-*
17 *graph (1), the Secretary may continue to provide to that*
18 *veteran any of the services that could be provided under*
19 *the pilot program. The authority to provide services to any*
20 *veteran under the preceding sentence applies during the pe-*
21 *riod beginning on the date specified in paragraph (1) with*
22 *respect to that pilot program and ending on December 31,*
23 *2005.”.*

1 **TITLE II—OTHER MATTERS**

2 **SEC. 201. INCLUSION OF ALL ENROLLED VETERANS AMONG**
3 **PERSONS ELIGIBLE TO USE CANTEENS OPER-**
4 **ATED BY VETERANS' CANTEEN SERVICE.**

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

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

8 “(1) *veterans hospitalized or domiciled at the fa-*
9 *cilities at which canteen services are provided; and*

10 “(2) *other veterans who are enrolled under sec-*
11 *tion 1705 of this title.*

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

14 “(1) *personnel of the Department and recognized*
15 *veterans' organizations who are employed at a facil-*
16 *ity at which canteen services are provided and to*
17 *other persons so employed;*

18 “(2) *the families of persons referred to in para-*
19 *graph (1) who reside at the facility; and*

20 “(3) *relatives and other persons while visiting a*
21 *person specified in this section.*”.

22 **SEC. 202. ENHANCEMENT OF MEDICAL PREPAREDNESS OF**
23 **DEPARTMENT.**

24 “(a) *PEER REVIEW PANEL.*—*In order to assist the Sec-*
25 *retary of Veterans Affairs in selecting facilities of the De-*

1 *partment of Veterans Affairs to serve as sites for centers*
2 *under section 7327 of title 38, United States Code, as added*
3 *by subsection (c), the Secretary shall establish a peer review*
4 *panel to assess the scientific and clinical merit of proposals*
5 *that are submitted to the Secretary for the selection of such*
6 *facilities. The panel shall be established not later than 90*
7 *days after the date of the enactment of this Act and shall*
8 *include experts in the fields of toxicological research, infec-*
9 *tious diseases, radiology, clinical care of veterans exposed*
10 *to such hazards, and other persons as determined appro-*
11 *priate by the Secretary. Members of the panel shall serve*
12 *as consultants to the Department of Veterans Affairs.*
13 *Amounts available to the Secretary for Medical Care may*
14 *be used for purposes of carrying out this subsection. The*
15 *panel shall not be subject to the Federal Advisory Com-*
16 *mittee Act (5 U.S.C. App.).*

17 *(b) PROPOSALS.—The Secretary shall solicit proposals*
18 *for designation of facilities as described in subsection (a).*
19 *The announcement of the solicitation of such proposals shall*
20 *be issued not later than 60 days after the date of the enact-*
21 *ment of this Act, and the deadline for the submission of*
22 *proposals in response to such solicitation shall be not later*
23 *than 90 days after the date of such announcement. The peer*
24 *review panel established under subsection (a) shall complete*
25 *its review of the proposals and submit its recommendations*

1 *to the Secretary not later than 60 days after the date of*
2 *the deadline for the submission of proposals. The Secretary*
3 *shall then select the four sites for the location of such centers*
4 *not later than 45 days after the date on which the peer*
5 *review panel submits its recommendations to the Secretary.*

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

8 (1) *a heading as follows:*

9 **“§ 7327. Medical preparedness centers”;**

10 *and*

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

14 “(i) *FUNDING.—(1) There are authorized to be appro-*
15 *priated for the centers under this section \$10,000,000 for*
16 *each of fiscal years 2005 through 2007.*

17 “(2) *In addition to any amounts appropriated for a*
18 *fiscal year specifically for the activities of the centers pursu-*
19 *ant to paragraph (1), the Under Secretary for Health shall*
20 *allocate to the centers from other funds appropriated for*
21 *that fiscal year generally for the Department medical care*
22 *account and the Department medical and prosthetics re-*
23 *search account such amounts as the Under Secretary deter-*
24 *mines necessary in order to carry out the purposes of this*
25 *section.”.*

1 (d) *RULE OF CONSTRUCTION.*—No provision of law
2 may be construed to supersede or nullify this section, or
3 an amendment made by this section, unless it specifically
4 refers to this subsection and specifically states that it is en-
5 acted to supersede or nullify this section or a provision of
6 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.”.

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2D SESSION

H.R. 4768

[Report No. 108-663]

A BILL

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SEPTEMBER 8, 2004

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed