

Suspend the Rules and Pass the Bill, HR. 5936

(The amendment strikes all after the enacting clause and inserts a new text)

114TH CONGRESS
2^D SESSION

H. R. 5936

To amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to enter into agreements with certain health care providers to furnish health care to veterans, to authorize the Secretary to enter into certain leases at the Department of Veterans Affairs West Los Angeles Campus in Los Angeles, California, to make certain improvements to the enhanced-use lease authority of the Department, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 6, 2016

Mr. MILLER of Florida (for himself and Mr. TED LIEU of California) introduced the following bill; which was referred to the Committee on Veterans' Affairs

A BILL

To amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to enter into agreements with certain health care providers to furnish health care to veterans, to authorize the Secretary to enter into certain leases at the Department of Veterans Affairs West Los Angeles Campus in Los Angeles, California, to make certain improvements to the enhanced-use lease authority of the Department, 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.**

4 This Act may be cited as the “Veterans Care Agree-
5 ment and West Los Angeles Leasing Act of 2016”.

6 **SEC. 2. VETERANS CARE AGREEMENTS.**

7 (a) IN GENERAL.—Subchapter I of chapter 17 of title
8 38, United States Code, is amended by inserting after sec-
9 tion 1703 the following new section:

10 **“§ 1703A. Veterans Care Agreements with certain**
11 **health care providers**

12 “(a) VETERANS CARE AGREEMENTS.—(1) In addi-
13 tion to furnishing hospital care, medical services, or ex-
14 tended care under this chapter at facilities of the Depart-
15 ment or under contracts or sharing agreements entered
16 into pursuant to provisions of law other than this section,
17 the Secretary may furnish such care and services to eligi-
18 ble veterans through the use of agreements entered into
19 under this section by the Secretary with eligible providers.

20 “(2) The Secretary may enter into Veterans Care
21 Agreements under this section with eligible providers to
22 furnish hospital care, medical services, and extended care
23 to veterans whom the Secretary determines that fur-
24 nishing such care and services at facilities of the Depart-
25 ment or under contracts or sharing agreements under pro-

1 visions of law other than this section is impracticable or
2 inadvisable because of the medical condition of the vet-
3 eran, the travel involved, or the nature of the care or serv-
4 ices required, or a combination of such factors.

5 “(3) The Secretary may enter into Veterans Care
6 Agreements under this section with eligible providers if the
7 Secretary determines that the hospital care or medical
8 services to be furnished under the agreement is not avail-
9 able to be furnished by a non-Department health care pro-
10 vider under a contract or sharing agreement entered into
11 pursuant to provisions of law other than this section.

12 “(b) VETERAN ELIGIBILITY.—Eligibility of a veteran
13 for care and services under this section shall be deter-
14 mined as if such care or services were furnished in a facil-
15 ity of the Department, and provisions of this title applica-
16 ble to veterans receiving such care and services in a facility
17 of the Department shall apply to veterans receiving care
18 and services under this section.

19 “(c) PROVIDER ELIGIBILITY.—Subject to the certifi-
20 cation process pursuant to subsection (d)(1), a provider
21 of hospital care, medical services, or extended care is eligi-
22 ble to enter into a Veterans Care Agreement under this
23 section if the Secretary determines that the provider meets
24 each of the following criteria:

1 “(1) The gross annual revenue of the provider
2 in the year preceding the year in which the provider
3 enters into the Veterans Care Agreement does not
4 exceed \$11,000,000 (as adjusted in a manner simi-
5 lar to amounts adjusted pursuant to section 5312 of
6 this title) or, with respect to a provider that is a
7 nursing care facility (skilled nursing facility),
8 \$27,500,000 (as so adjusted).

9 “(2) The provider does not otherwise provide
10 such care or services to patients pursuant to a con-
11 tract entered into with a department or agency of
12 the Federal Government.

13 “(3) The provider is—

14 “(A) a provider of services that has en-
15 rolled and entered into a provider agreement
16 under section 1866(a) of the Social Security
17 Act (42 U.S.C. 1395cc(a));

18 “(B) a physician or supplier that has en-
19 rolled and entered into a participation agree-
20 ment under section 1842(h) of such Act (42
21 U.S.C. 1395u(h));

22 “(C) a provider of items and services re-
23 ceiving payment under a State plan under title
24 XIX of such Act (42 U.S.C. 1396 et seq.) or
25 a waiver of such a plan;

1 “(D) an Aging and Disability Resource
2 Center, an area agency on aging, or a State
3 agency (as defined in section 102 of the Older
4 Americans Act of 1965 (42 U.S.C. 3002)); or

5 “(E) a center for independent living (as
6 defined in section 702 of the Rehabilitation Act
7 of 1973 (29 U.S.C. 796a)).

8 “(4) Any additional criteria determined appro-
9 priate by the Secretary.

10 “(d) PROVIDER CERTIFICATION.—(1) The Secretary
11 shall establish a process for the certification of eligible
12 providers to enter into Veterans Care Agreements under
13 this section that shall, at a minimum, set forth the fol-
14 lowing:

15 “(A) Procedures for the submission of applica-
16 tions for certification and deadlines for actions taken
17 by the Secretary with respect to such applications.

18 “(B) Standards and procedures for the ap-
19 proval and denial of certifications and the revocation
20 of certifications.

21 “(C) Procedures for assessing eligible providers
22 based on the risk of fraud, waste, and abuse of such
23 providers similar to the level of screening under sec-
24 tion 1866(j)(2)(B) of the Social Security Act (42
25 U.S.C. 1395(j)(2)(B)) and the standards set forth

1 under section 9.104 of title 48, Code of Federal
2 Regulations, or any successor regulation.

3 “(D) Requirement for denial or revocation of
4 certification if the Secretary determines that the
5 otherwise eligible provider is—

6 “(i) excluded from participation in a Fed-
7 eral health care program (as defined in section
8 1128B(f) of the Social Security Act (42 U.S.C.
9 1320a–7b(f))) under section 1128 or 1128A of
10 the Social Security Act (42 U.S.C. 1320a–7
11 and 1320a–7a); or

12 “(ii) identified as an excluded source on
13 the list maintained in the System for Award
14 Management, or any successor system.

15 “(E) Procedures by which a provider whose cer-
16 tification is denied or revoked under the procedures
17 established under this subsection will be identified as
18 an excluded source on the list maintained in the Sys-
19 tem for Award Management, or successor system, if
20 the Secretary determines that such exclusion is ap-
21 propriate.

22 “(2) To the extent practicable, the Secretary shall es-
23 tablish the procedures under paragraph (1) in a manner
24 that takes into account any certification process adminis-
25 tered by another department or agency of the Federal

1 Government that an eligible provider has completed by
2 reason of being a provider described in any of subpara-
3 graphs (A) through (E) of subsection (c)(3).

4 “(e) TERMS OF AGREEMENTS.—(1) The Secretary
5 shall ensure that each Veterans Care Agreement include
6 provisions requiring the eligible provider to do the fol-
7 lowing:

8 “(A) To accept payment for care and services
9 furnished under this section in accordance with
10 paragraph (2).

11 “(B) To accept payment under subparagraph
12 (A) as payment in full for care and services fur-
13 nished under this section and to not seek any pay-
14 ment for such care and services from the recipient
15 of such care.

16 “(C) To furnish under this section only the care
17 and services authorized by the Department under
18 this section unless the eligible provider receives prior
19 written consent from the Department to furnish care
20 and services outside the scope of such authorization.

21 “(D) To bill the Department for care and serv-
22 ices furnished under this section in accordance with
23 a methodology established by the Secretary for pur-
24 poses of this section.

1 “(E) Not to seek to recover or collect from a
2 health-plan contract or third party (as those terms
3 are defined in section 1729 of this title) for any care
4 or services for which payment is made by the De-
5 partment under this section.

6 “(F) To provide medical records for veterans
7 furnished care and services under this section to the
8 Department in a timeframe and format specified by
9 the Secretary for purposes of this section, except the
10 Secretary may not require that any payment by the
11 Secretary to the eligible provider be contingent on
12 such provision of medical records.

13 “(G) To meet other such terms and conditions,
14 including quality of care assurance standards, as the
15 Secretary may specify for purposes of this section.

16 “(2)(A) Except as provided in subparagraphs (B)
17 through (G), rates negotiated for care and services fur-
18 nished under a Veterans Care Agreement shall not be
19 more than the rates paid by the United States to a pro-
20 vider of services (as defined in section 1861(u) of the So-
21 cial Security Act (42 U.S.C. 1395x(u))) or a supplier (as
22 defined in section 1861(d) of such Act (42 U.S.C.
23 1395x(d))) under the Medicare program under title XVIII
24 of the Social Security Act (42 U.S.C. 1395 et seq.) for
25 the same care or services.

1 “(B) With respect to the furnishing of care or serv-
2 ices under this section to an eligible veteran who resides
3 in a highly rural area (as defined under the rural-urban
4 commuting area codes developed by the Secretary of Agri-
5 culture and the Secretary of Health and Human Services),
6 the Secretary of Veterans Affairs may negotiate a rate
7 that is more than the rate paid by the United States as
8 described in subparagraph (B).

9 “(C) With respect to furnishing care or services
10 under a Veterans Care Agreement in Alaska, the Alaska
11 Fee Schedule of the Department of Veterans Affairs will
12 be followed, except for when another payment agreement,
13 including a contract or provider agreement, is in place.

14 “(D) With respect to furnishing care or services
15 under a Veterans Care Agreement in a State with an All-
16 Payer Model Agreement under the Social Security Act
17 that became effective on or after January 1, 2014, the
18 Medicare payment rates under clause (i) shall be cal-
19 culated based on the payment rates under such agreement,
20 or any such successor agreement.

21 “(E) With respect to furnishing care or services
22 under a Veterans Care Agreement in a region in which
23 the Secretary determines that adjusting the rate paid by
24 the United States as described in subparagraph (A) is ap-

1 appropriate, the Secretary may negotiate such an adjusted
2 rate.

3 “(F) With respect to furnishing care or services
4 under a Veterans Care Agreement in a location or in a
5 situation in which an exception to the rates paid by the
6 United States under the Medicare program under title
7 XVIII of the Social Security Act (42 U.S.C. 1395 et seq.)
8 for the same care or services applies, the Secretary shall
9 follow such exception.

10 “(G) With respect to furnishing care or services
11 under a Veterans Care Agreement for care or services not
12 covered under the Medicare program under title XVIII of
13 the Social Security Act (42 U.S.C. 1395 et seq.), the Sec-
14 retary shall establish a schedule of fees for such care or
15 services.

16 “(f) EXCLUSION OF CERTAIN FEDERAL CON-
17 TRACTING PROVISIONS.—(1) Notwithstanding any other
18 provision of law, the Secretary may enter into a Veterans
19 Care Agreement using procedures other than competitive
20 procedures.

21 “(2)(A) Except as provided in subparagraph (B) and
22 unless otherwise provided in this section, an eligible pro-
23 vider that enters into a Veterans Care Agreement under
24 this section is not subject to, in the carrying out of the
25 agreement, any provision of law that providers of services

1 and suppliers under the original Medicare fee-for-service
2 program under parts A and B of title XVIII of the Social
3 Security Act (42 U.S.C. 1395 et seq.) or the Medicaid pro-
4 gram under title XIX of such Act (42 U.S.C. 1396 et seq.)
5 are not subject to.

6 “(B) In addition to the provisions of laws covered by
7 subparagraph (A), an eligible provider shall be subject to
8 the following provisions of law:

9 “(i) Any applicable law regarding integrity, eth-
10 ics, or fraud, or that subject a person to civil or
11 criminal penalties.

12 “(ii) Section 431 of title 18.

13 “(iii) Section 1352 of title 31, except for the fil-
14 ing requirements under subsection (b) of such sec-
15 tion.

16 “(iv) Section 4705 or 4712 of title 41, and any
17 other applicable law regarding the protection of
18 whistleblowers.

19 “(v) Section 4706(d) of title 41.

20 “(vi) Title VII of the Civil Rights Act of 1964
21 (42 U.S.C. 2000e et seq.) to the same extent as
22 such title applies with respect to the eligible provider
23 in providing care or services through an agreement
24 or arrangement other than under a Veterans Care
25 Agreement.

1 “(g) TERMINATION OF A VETERANS CARE AGREE-
2 MENT.—(1) An eligible provider may terminate a Veterans
3 Care Agreement with the Secretary under this section at
4 such time and upon such notice to the Secretary as the
5 Secretary may specify for purposes of this section.

6 “(2) The Secretary may terminate a Veterans Care
7 Agreement with an eligible provider under this section at
8 such time and upon such notice to the eligible provider
9 as the Secretary may specify for the purposes of this sec-
10 tion, if the Secretary—

11 “(A) determines that the eligible provider failed
12 to comply with the provisions of the agreement or
13 this section or other applicable provision of law;

14 “(B) makes a revocation pursuant to subsection
15 (d)(1)(4);

16 “(C) ascertains that the eligible provider has
17 been convicted of a felony or other serious offense
18 under Federal or State law and determines that the
19 continued participation of the eligible provider would
20 be detrimental to the best interests of veterans of
21 the Department; or

22 “(D) determines that it is reasonable to termi-
23 nate the agreement based on the health care needs
24 of veterans.

1 “(h) DISPUTES.—(1) The Secretary shall establish
2 administrative procedures for eligible providers with which
3 the Secretary has entered into a Veterans Care Agreement
4 to present any dispute arising under or related to the
5 agreement.

6 “(2) Before using any dispute resolution mechanism
7 under chapter 71 of title 41 with respect to a dispute arising
8 under a Veterans Care Agreement under this section,
9 an eligible provider must first exhaust the administrative
10 procedures established by the Secretary under paragraph
11 (1).

12 “(i) ANNUAL REPORTS.—Not later than October 1
13 of the year following the fiscal year in which the Secretary
14 first enters into a Veterans Care Agreement, and each
15 year thereafter, the Secretary shall submit to the appropriate
16 congressional committees an annual report that includes—
17

18 “(1) a list of all Veterans Care Agreements entered
19 into as of the date of the report; and

20 “(2) summaries of each determination made by
21 the Secretary under subsection (h)(2) during the fiscal
22 year covered by the report.

23 “(j) QUALITY OF CARE.—In carrying out this section,
24 the Secretary shall use the quality of care standards

1 set forth or used by the Centers for Medicare & Medicaid
2 Services.

3 “(k) DELEGATION.—The Secretary may delegate the
4 authority to enter into or terminate a Veterans Care
5 Agreement, or to make a determination described in sub-
6 section (h)(2), at a level not below the Assistant Deputy
7 Under Secretary for Health for Community Care.

8 “(l) SUNSET.—The Secretary may not enter into or
9 renew a Veterans Care Agreement under this section after
10 September 30, 2017.

11 “(m) DEFINITIONS.—In this section:

12 “(1) The term ‘appropriate congressional com-
13 mittees’ means—

14 “(A) the Committees on Veterans’ Affairs
15 of the House of Representatives and the Sen-
16 ate; and

17 “(B) the Committees on Appropriations of
18 the House of Representatives and the Senate.

19 “(2) The term ‘eligible provider’ means a pro-
20 vider of hospital care, medical services, or extended
21 care that the Secretary determines is eligible to
22 enter into Veterans Care Agreements under sub-
23 section (c).

1 “(3) The term ‘Veterans Care Agreement’
2 means an agreement entered into by the Secretary
3 with an eligible provider under subsection (a)(1).”.

4 (b) CLERICAL AMENDMENT.—The table of sections
5 at the beginning of such chapter is amended by inserting
6 after the item relating to section 1703 the following new
7 item:

 “1703A. Veterans Care Agreements with certain health care providers.”.

8 **SEC. 3. AUTHORITY TO ENTER INTO CERTAIN LEASES AT**
9 **THE DEPARTMENT OF VETERANS AFFAIRS**
10 **WEST LOS ANGELES CAMPUS.**

11 (a) IN GENERAL.—The Secretary of Veterans Affairs
12 may carry out leases described in subsection (b) at the
13 Department of Veterans Affairs West Los Angeles Cam-
14 pus in Los Angeles, California (hereinafter in this section
15 referred to as the “Campus”).

16 (b) LEASES DESCRIBED.—Leases described in this
17 subsection are the following:

18 (1) Any enhanced-use lease of real property
19 under subchapter V of chapter 81 of title 38, United
20 States Code, for purposes of providing supportive
21 housing, as that term is defined in section 8161(3)
22 of such title, that principally benefit veterans and
23 their families.

24 (2) Any lease of real property for a term not to
25 exceed 50 years to a third party to provide services

1 that principally benefit veterans and their families
2 and that are limited to one or more of the following
3 purposes:

4 (A) The promotion of health and wellness,
5 including nutrition and spiritual wellness.

6 (B) Education.

7 (C) Vocational training, skills building, or
8 other training related to employment.

9 (D) Peer activities, socialization, or phys-
10 ical recreation.

11 (E) Assistance with legal issues and Fed-
12 eral benefits.

13 (F) Volunteerism.

14 (G) Family support services, including
15 child care.

16 (H) Transportation.

17 (I) Services in support of one or more of
18 the purposes specified in subparagraphs (A)
19 through (H).

20 (3) A lease of real property for a term not to
21 exceed 10 years to The Regents of the University of
22 California, a corporation organized under the laws of
23 the State of California, on behalf of its University of
24 California, Los Angeles (UCLA) campus (herein-

1 after in this section referred to as “The Regents”),
2 if—

3 (A) the lease is consistent with the master
4 plan described in subsection (g);

5 (B) the provision of services to veterans is
6 the predominant focus of the activities of The
7 Regents at the Campus during the term of the
8 lease;

9 (C) The Regents expressly agrees to pro-
10 vide, during the term of the lease and to an ex-
11 tent and in a manner that the Secretary con-
12 siders appropriate, additional services and sup-
13 port (for which The Regents is not compensated
14 by the Secretary or through an existing medical
15 affiliation agreement) that—

16 (i) principally benefit veterans and
17 their families, including veterans that are
18 severely disabled, women, aging, or home-
19 less; and

20 (ii) may consist of activities relating
21 to the medical, clinical, therapeutic, die-
22 tary, rehabilitative, legal, mental, spiritual,
23 physical, recreational, research, and coun-
24 seling needs of veterans and their families
25 or any of the purposes specified in any of

1 subparagraphs (A) through (I) of para-
2 graph (2); and

3 (D) The Regents maintains records docu-
4 menting the value of the additional services and
5 support that The Regents provides pursuant to
6 subparagraph (C) for the duration of the lease
7 and makes such records available to the Sec-
8 retary.

9 (c) LIMITATION ON LAND-SHARING AGREEMENTS.—
10 The Secretary may not carry out any land-sharing agree-
11 ment pursuant to section 8153 of title 38, United States
12 Code, at the Campus unless such agreement—

13 (1) provides additional health-care resources to
14 the Campus; and

15 (2) benefits veterans and their families other
16 than from the generation of revenue for the Depart-
17 ment of Veterans Affairs.

18 (d) REVENUES FROM LEASES AT THE CAMPUS.—
19 Any funds received by the Secretary under a lease de-
20 scribed in subsection (b) shall be credited to the applicable
21 Department medical facilities account and shall be avail-
22 able, without fiscal year limitation and without further ap-
23 propriation, exclusively for the renovation and mainte-
24 nance of the land and facilities at the Campus.

25 (e) EASEMENTS.—

1 (1) IN GENERAL.—Notwithstanding any other
2 provision of law (other than Federal laws relating to
3 environmental and historic preservation), pursuant
4 to section 8124 of title 38, United States Code, the
5 Secretary may grant easements or rights-of-way on,
6 above, or under lands at the Campus to—

7 (A) any local or regional public transpor-
8 tation authority to access, construct, use, oper-
9 ate, maintain, repair, or reconstruct public
10 mass transit facilities, including, fixed guideway
11 facilities and transportation centers; and

12 (B) the State of California, County of Los
13 Angeles, City of Los Angeles, or any agency or
14 political subdivision thereof, or any public util-
15 ity company (including any company providing
16 electricity, gas, water, sewage, or telecommuni-
17 cation services to the public) for the purpose of
18 providing such public utilities.

19 (2) IMPROVEMENTS.—Any improvements pro-
20 posed pursuant to an easement or right-of-way au-
21 thorized under paragraph (1) shall be subject to
22 such terms and conditions as the Secretary considers
23 appropriate.

24 (3) TERMINATION.—Any easement or right-of-
25 way authorized under paragraph (1) shall be termi-

1 nated upon the abandonment or nonuse of the ease-
2 ment or right-of-way and all right, title, and interest
3 in the land covered by the easement or right-of-way
4 shall revert to the United States.

5 (f) PROHIBITION ON SALE OF PROPERTY.—Notwith-
6 standing section 8164 of title 38, United States Code, the
7 Secretary may not sell or otherwise convey to a third party
8 fee simple title to any real property or improvements to
9 real property made at the Campus.

10 (g) CONSISTENCY WITH MASTER PLAN.—The Sec-
11 retary shall ensure that each lease carried out under this
12 section is consistent with the draft master plan approved
13 by the Secretary on January 28, 2016, or successor mas-
14 ter plans.

15 (h) COMPLIANCE WITH CERTAIN LAWS.—

16 (1) LAWS RELATING TO LEASES AND LAND
17 USE.—If the Inspector General of the Department of
18 Veterans Affairs determines, as part of an audit re-
19 port or evaluation conducted by the Inspector Gen-
20 eral, that the Department is not in compliance with
21 all Federal laws relating to leases and land use at
22 the Campus, or that significant mismanagement has
23 occurred with respect to leases or land use at the
24 Campus, the Secretary may not enter into any lease
25 or land-sharing agreement at the Campus, or renew

1 any such lease or land-sharing agreement that is not
2 in compliance with such laws, until the Secretary
3 certifies to the Committees on Veterans' Affairs of
4 the Senate and House of Representatives, the Com-
5 mittees on Appropriations of the Senate and House
6 of Representatives, and each Member of the Senate
7 and the House of Representatives who represents
8 the area in which the Campus is located that all rec-
9 ommendations included in the audit report or eval-
10 uation have been implemented.

11 (2) COMPLIANCE OF PARTICULAR LEASES.—

12 Except as otherwise expressly provided by this sec-
13 tion, no lease may be entered into or renewed under
14 this section unless the lease complies with chapter
15 33 of title 41, United States Code, and all Federal
16 laws relating to environmental and historic preserva-
17 tion.

18 (i) VETERANS AND COMMUNITY OVERSIGHT AND EN-
19 GAGEMENT BOARD.—

20 (1) IN GENERAL.—Not later than 180 days
21 after the date of the enactment of this Act, the Sec-
22 retary shall establish a Veterans and Community
23 Oversight and Engagement Board (in this sub-
24 section referred to as the “Board”) for the Campus

1 to coordinate locally with the Department of Vet-
2 erans Affairs to—

3 (A) identify the goals of the community
4 and veteran partnership;

5 (B) provide advice and recommendations
6 to the Secretary to improve services and out-
7 comes for veterans, members of the Armed
8 Forces, and the families of such veterans and
9 members; and

10 (C) provide advice and recommendations
11 on the implementation of the draft master plan
12 approved by the Secretary on January 28,
13 2016, and on the creation and implementation
14 of any successor master plans.

15 (2) MEMBERS.—The Board shall be comprised
16 of a number of members that the Secretary deter-
17 mines appropriate, of which not less than 50 percent
18 shall be veterans. The nonveteran members shall be
19 family members of veterans, veteran advocates, serv-
20 ice providers, real estate professionals familiar with
21 housing development projects, or stakeholders.

22 (3) COMMUNITY INPUT.— In carrying out para-
23 graph (1), the Board shall—

24 (A) provide the community opportunities to
25 collaborate and communicate with the Board,

1 including by conducting public forums on the
2 Campus; and

3 (B) focus on local issues regarding the De-
4 partment that are identified by the community,
5 including with respect to health care, implemen-
6 tation of the draft master plan and any subse-
7 quent plans, benefits, and memorial services at
8 the Campus.

9 (j) NOTIFICATION AND REPORTS.—

10 (1) CONGRESSIONAL NOTIFICATION.—With re-
11 spect to each lease or land-sharing agreement in-
12 tended to be entered into or renewed at the Campus,
13 the Secretary shall notify the Committees on Vet-
14 erans' Affairs of the Senate and House of Rep-
15 resentatives, the Committees on Appropriations of
16 the Senate and House of Representatives, and each
17 Member of the Senate and the House of Representa-
18 tives who represents the area in which the Campus
19 is located of the intent of the Secretary to enter into
20 or renew the lease or land-sharing agreement not
21 later than 45 days before entering into or renewing
22 the lease or land-sharing agreement.

23 (2) ANNUAL REPORT.—Not later than one year
24 after the date of the enactment of this Act, and not
25 less frequently than annually thereafter, the Sec-

1 retary shall submit to the Committees on Veterans'
2 Affairs of the Senate and House of Representatives,
3 the Committees on Appropriations of the Senate and
4 House of Representatives, and each Member of the
5 Senate and the House of Representatives who rep-
6 resents the area in which the Campus is located an
7 annual report evaluating all leases and land-sharing
8 agreements carried out at the Campus, including—

9 (A) an evaluation of the management of
10 the revenue generated by the leases; and

11 (B) the records described in subsection
12 (b)(3)(D).

13 (3) INSPECTOR GENERAL REPORT.—

14 (A) IN GENERAL.—Not later than each of
15 two years and five years after the date of the
16 enactment of this Act, and as determined nec-
17 essary by the Inspector General of the Depart-
18 ment of Veterans Affairs thereafter, the Inspec-
19 tor General shall submit to the Committees on
20 Veterans' Affairs of the Senate and House of
21 Representatives and the Committees on Appro-
22 priations of the Senate and House of Rep-
23 resentatives, and each Member of the Senate
24 and the House of Representatives who rep-
25 resents the area in which the Campus is located

1 a report on all leases carried out at the Campus
2 and the management by the Department of the
3 use of land at the Campus, including an assess-
4 ment of the efforts of the Department to imple-
5 ment the master plan described in subsection
6 (g) with respect to the Campus.

7 (B) CONSIDERATION OF ANNUAL RE-
8 PORT.—In preparing each report required by
9 subparagraph (A), the Inspector General shall
10 take into account the most recent report sub-
11 mitted to Congress by the Secretary under
12 paragraph (2).

13 (k) RULE OF CONSTRUCTION.—Nothing in this sec-
14 tion shall be construed as a limitation on the authority
15 of the Secretary to enter into other agreements regarding
16 the Campus that are authorized by law and not incon-
17 sistent with this section.

18 (l) PRINCIPALLY BENEFIT VETERANS AND THEIR
19 FAMILIES DEFINED.—In this section the term “prin-
20 cipally benefit veterans and their families”, with respect
21 to services provided by a person or entity under a lease
22 of property or land-sharing agreement—

23 (1) means services—

24 (A) provided exclusively to veterans and
25 their families; or

1 (B) that are designed for the particular
2 needs of veterans and their families, as opposed
3 to the general public, and any benefit of those
4 services to the general public is distinct from
5 the intended benefit to veterans and their fami-
6 lies; and

7 (2) excludes services in which the only benefit
8 to veterans and their families is the generation of
9 revenue for the Department of Veterans Affairs.

10 (m) CONFORMING AMENDMENTS.—

11 (1) PROHIBITION ON DISPOSAL OF PROP-
12 erty.—Section 224(a) of the Military Construction
13 and Veterans Affairs and Related Agencies Appro-
14 priations Act, 2008 (Public Law 110–161; 121 Stat.
15 2272) is amended by striking “The Secretary of
16 Veterans Affairs” and inserting “Except as author-
17 ized under the Los Angeles Homeless Veterans
18 Leasing Act of 2016, the Secretary of Veterans Af-
19 fairs”.

20 (2) ENHANCED-USE LEASES.—Section 8162(c)
21 of title 38, United States Code, is amended by in-
22 serting “, other than an enhanced-use lease under
23 the Los Angeles Homeless Veterans Leasing Act of
24 2016,” before “shall be considered”.

1 **SEC. 4. IMPROVEMENTS TO ENHANCED-USE LEASE AU-**
2 **THORITY OF DEPARTMENT OF VETERANS AF-**
3 **FAIRS.**

4 (a) PROHIBITION ON WAIVER OF OBLIGATION OF
5 LESSEE.—Paragraph (3) of section 8162(b) of title 38,
6 United States Code, is amended by adding at the following
7 new subparagraph:

8 “(D) The Secretary may not waive or postpone the
9 obligation of a lessee to pay any consideration under an
10 enhanced-use lease, including monthly rent.”.

11 (b) CLARIFICATION OF LIABILITY OF FEDERAL GOV-
12 ERNMENT TO THIRD PARTIES.—Section 8162 of such title
13 is amended by adding at the end the following new sub-
14 section:

15 “(d)(1) Nothing in this subchapter authorizes the
16 Secretary to enter into an enhanced-use lease that pro-
17 vides for, is contingent upon, or otherwise authorizes the
18 Federal Government to guarantee a loan made by a third
19 party to a lessee for purposes of the enhanced-use lease.

20 “(2) Nothing in this subchapter shall be construed
21 to abrogate or constitute a waiver of the sovereign immu-
22 nity of the United States with respect to any loan, financ-
23 ing, or other financial agreement entered into by the lessee
24 and a third party relating to an enhanced-use lease.”.

25 (c) TRANSPARENCY.—

1 (1) NOTICE.—Section 8163(c)(1) of such title
2 is amended—

3 (A) by inserting “, the Committees on Ap-
4 propriations of the House of Representatives
5 and the Senate, and the Committees on the
6 Budget of the House of Representatives and the
7 Senate” after “congressional veterans’ affairs
8 committees”;

9 (B) by striking “and shall publish” and in-
10 serting “, shall publish”;

11 (C) by inserting before the period at the
12 end the following: “, and shall submit to the
13 congressional veterans’ affairs committees a
14 copy of the proposed lease”; and

15 (D) by adding at the end the following new
16 sentence: “With respect to a major enhanced-
17 use lease, upon the request of the congressional
18 veterans’ affairs committees, not later than 30
19 days after the date of such notice, the Secretary
20 shall testify before the committees on the major
21 enhanced-use lease, including with respect to
22 the status of the lease, the cost, and the plans
23 to carry out the activities under the lease. The
24 Secretary may not delegate such testifying
25 below the level of the head of the Office of

1 Asset Enterprise Management of the Depart-
2 ment or any successor to such office.”.

3 (2) ANNUAL REPORTS.—Section 8168 of such
4 title is amended—

5 (A) by striking “to Congress” each place it
6 appears and inserting “to the congressional vet-
7 erans’ affairs committees, the Committees on
8 Appropriations of the House of Representatives
9 and the Senate, and the Committees on the
10 Budget of the House of Representatives and the
11 Senate”;

12 (B) in subsection (a)—

13 (i) by striking “Not later” and insert-
14 ing “(1) Not later”;

15 (ii) by striking “a report” and all that
16 follows through the period at the end and
17 inserting “a report on enhanced-use
18 leases.”; and

19 (iii) by adding at the end the fol-
20 lowing new paragraph:

21 “(2) Each report under paragraph (1) shall include
22 the following:

23 “(A) Identification of the actions taken by the
24 Secretary to implement and administer enhanced-use
25 leases.

1 “(B) For the most recent fiscal year covered by
2 the report, the amounts deposited into the Medical
3 Care Collection Fund account that were derived
4 from enhanced-use leases.

5 “(C) Identification of the actions taken by the
6 Secretary using the amounts described in subpara-
7 graph (B).

8 “(D) Documents of the Department supporting
9 the contents of the report described in subpara-
10 graphs (A) through (C).”; and

11 (C) in subsection (b)—

12 (i) by striking “Each year” and in-
13 serting “(1) Each year”;

14 (ii) by striking “this subchapter,” and
15 all that follows through the period at the
16 end and inserting “this subchapter.”; and

17 (iii) by adding at the end the fol-
18 lowing new paragraph:

19 “(2) Each report under paragraph (1) shall include
20 the following with respect to each enhanced-use lease cov-
21 ered by the report:

22 “(A) An overview of how the Secretary is using
23 consideration received by the Secretary under the
24 lease to support veterans.

1 “(B) The amount of consideration received by
2 the Secretary under the lease.

3 “(C) The amount of any revenues collected by
4 the Secretary relating to the lease not covered by
5 subparagraph (B), including a description of any in-
6 kind assistance or services provided by the lessee to
7 the Secretary or to veterans under an agreement en-
8 tered into by the Secretary pursuant to any provi-
9 sion of law.

10 “(D) The costs to the Secretary of carrying out
11 the lease.

12 “(E) Documents of the Department supporting
13 the contents of the report described in subpara-
14 graphs (A) through (D).”.

15 (d) **ADDITIONAL DEFINITIONS.**—Section 8161 of
16 such title is amended by adding at the end the following
17 new paragraphs:

18 “(4) The term ‘lessee’ means the party with
19 whom the Secretary has entered into an enhanced-
20 use lease under this subchapter.

21 “(5) The term ‘major enhanced-use lease’
22 means an enhanced-use lease that includes consider-
23 ation consisting of an average annual rent of more
24 than \$10,000,000.”.

25 (e) **COMPTROLLER GENERAL AUDIT.**—

1 (1) REPORT.—Not later than 270 days after
2 the date of the enactment of this Act, the Comp-
3 troller General of the United States shall submit to
4 the appropriate congressional committees a report
5 containing an audit of the enhanced-use lease pro-
6 gram of the Department of Veterans Affairs under
7 subchapter V of chapter 81 of title 38, United
8 States Code.

9 (2) MATTERS INCLUDED.—The report under
10 paragraph (1) shall include the following:

11 (A) The financial impact of the enhanced-
12 use lease authority on the Department of Vet-
13 erans Affairs and whether the revenue realized
14 from such authority and other financial benefits
15 would have been realized without such author-
16 ity.

17 (B) The use by the Secretary of such au-
18 thority and whether the arrangements made
19 under such authority would have been made
20 without such authority.

21 (C) An identification of the controls that
22 are in place to ensure accountability and trans-
23 parency and to protect the Federal Govern-
24 ment.

1 (D) An overall assessment of the activities
2 of the Secretary under such authority to ensure
3 procurement cost avoidance, negotiated cost
4 avoidance, in-contract cost avoidance, and rate
5 reductions.

6 (3) APPROPRIATE CONGRESSIONAL COMMIT-
7 TEES DEFINED.—In this subsection, the term “ap-
8 propriate congressional committees” means—

9 (A) the Committees on Veterans’ Affairs of
10 the House of Representatives and the Senate;

11 (B) the Committees on Appropriations of
12 the House of Representatives and the Senate;
13 and

14 (C) the Committees on the Budget of the
15 House of Representatives and the Senate.