

[DISCUSSION DRAFT]

115TH CONGRESS
1ST SESSION

H. R. _____

To

IN THE HOUSE OF REPRESENTATIVES

M. _____ introduced the following bill; which was referred to the
Committee on _____

A BILL

To

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **TITLE IV—ASSET AND**
4 **INFRASTRUCTURE REVIEW**

5 **SECTION 401. SHORT TITLE.**

6 This title may be cited as the “Asset and Infrastruc-
7 ture Review Act of 2017”.

8 **SEC. 402. THE COMMISSION.**

9 (a) **ESTABLISHMENT.**—There is established an inde-
10 pendent commission to be known as the “Asset and Infra-

1 structure Review Commission” (in this title referred to as
2 the “Commission”).

3 (b) DUTIES.—The Commission shall carry out the
4 duties specified for it in this title.

5 (c) APPOINTMENT.—

6 (1) IN GENERAL.—

7 (A) APPOINTMENT.—The Commission
8 shall be composed of 11 members appointed by
9 the President, by and with the advice and con-
10 sent of the Senate.

11 (B) TRANSMISSION OF NOMINATIONS.—
12 The President shall transmit to the Senate the
13 nominations for appointment to the Commission
14 by no later than May 1, 2018.

15 (2) CONSULTATION IN SELECTION PROCESS.—
16 In selecting individuals for nominations for appoint-
17 ments to the Commission, the President should con-
18 sult with—

19 (A) the Speaker of the House of Rep-
20 resentatives concerning the appointment of two
21 members;

22 (B) the majority leader of the Senate con-
23 cerning the appointment of two members;

1 (C) the minority leader of the House of
2 Representatives concerning the appointment of
3 two members; and

4 (D) the minority leader of the Senate con-
5 cerning the appointment of two members.

6 (3) DESIGNATION OF CHAIR.—At the time the
7 President nominates individuals for appointment to
8 the Commission under paragraph (1)(B), the Presi-
9 dent shall designate one such individual who shall
10 serve as Chair of the Commission and one such indi-
11 vidual who shall serve as Vice Chair of the Commis-
12 sion.

13 (4) MEMBER REPRESENTATION.—In nomi-
14 nating individuals under this subsection, the Presi-
15 dent shall ensure that—

16 (A) veterans, reflecting current veteran de-
17 mographics, are adequately represented in the
18 membership of the Commission;

19 (B) at least one member of the Commis-
20 sion has experience for a private integrated
21 health care system that has annual gross reve-
22 nues of more than \$50,000,000;

23 (C) at least one member has experience as
24 a senior manager for an entity specified in sec-
25 tion clause (ii), (iii), or (iv) of section

1 101(a)(1)(B) of the Veterans Access, Choice,
2 and Accountability Act of 2014 (Public Law
3 113–146; 38 U.S.C. 1701 note);

4 (D) at least one member—

5 (i) has experience with capital asset
6 management for the Federal Government;
7 and

8 (ii) is familiar with trades related to
9 building and real property, including con-
10 struction, engineering, architecture, leas-
11 ing, and strategic partnerships; and

12 (E) at least three members represent con-
13 gressionally-chartered, membership-based vet-
14 erans service organizations.

15 (d) MEETINGS.—

16 (1) IN GENERAL.—The Commission shall meet
17 only during calendar years 2018 and 2019.

18 (2) PUBLIC NATURE OF MEETINGS AND PRO-
19 CEEDINGS.—

20 (A) PUBLIC MEETINGS.—Each meeting of
21 the Commission shall be open to the public.

22 (B) OPEN PARTICIPATION.—All the pro-
23 ceedings, information, and deliberations of the
24 Commission shall be open, upon request, to the
25 following:

1 (i) The Chair and the ranking minor-
2 ity party member of the Committee on
3 Veterans' Affairs of the Senate, or such
4 other members of the Committee des-
5 igned by such Chair or ranking minority
6 party member.

7 (ii) The Chair and the ranking minor-
8 ity party member of the Committee on
9 Veterans' Affairs of the House of Rep-
10 resentatives, or such other members of the
11 Committee designated by such Chair or
12 ranking minority party member.

13 (iii) The Chair and the ranking mi-
14 nority party member of the Subcommittee
15 on Health of the Committee on Veterans'
16 Affairs of the House of Representatives, or
17 such other members of the Subcommittee
18 designated by such Chair or ranking mi-
19 nority party member.

20 (iv) The Chair and the ranking minor-
21 ity party member of the Subcommittee on
22 Military Construction, Veterans Affairs,
23 and Related Agencies of the Committee on
24 Appropriations of the Senate, or such
25 other members of the Subcommittee des-

1 ignated by such Chair or ranking minority
2 party member.

3 (v) The Chair and the ranking minor-
4 ity party member of the Subcommittee on
5 Military Construction, Veterans Affairs,
6 and Related Agencies of the Committee on
7 Appropriations of the House of Represent-
8 atives, or such other members of the Sub-
9 committee designated by such Chair or
10 ranking minority party member.

11 (e) VACANCIES.—A vacancy in the Commission shall
12 be filled in the same manner as the original appointment,
13 but the individual appointed to fill the vacancy shall serve
14 only for the unexpired portion of the term for which the
15 individual's predecessor was appointed.

16 (f) PAY AND TRAVEL EXPENSES.—

17 (1) IN GENERAL.—

18 (A) MEMBERS.—Each member, other than
19 the Chair, shall be paid at a rate equal to the
20 daily equivalent of the minimum annual rate of
21 basic pay payable for level IV of the Executive
22 Schedule under section 5315 of title 5, United
23 States Code, for each day (including travel
24 time) during which the member is engaged in

1 the actual performance of duties vested in the
2 Commission.

3 (B) CHAIR.—The Chair shall be paid at a
4 rate equal to the daily equivalent of the min-
5 imum annual rate of basic pay payable for level
6 III of the Executive Schedule under section
7 5314 of title 5, United States Code, for each
8 day (including travel time) during which the
9 Chair is engaged in the actual performance of
10 duties vested in the Chair.

11 (C) OFFICERS OR EMPLOYEES OF THE
12 UNITED STATES.—Each member of the Com-
13 mission who is an officer or employee of the
14 United States shall serve without compensation
15 in addition to that received for service as an of-
16 ficer or employee of the United States.

17 (2) TRAVEL EXPENSES.—Members shall receive
18 travel expenses, including per diem in lieu of subsist-
19 ence, in accordance with sections 5702 and 5703 of
20 title 5, United States Code.

21 (g) DIRECTOR OF STAFF.—

22 (1) APPOINTMENT.—The Commission shall ap-
23 point a Director who—

24 (A) has not served as an employee of the
25 Department of Veterans Affairs during the one-

1 year period preceding the date of such appoint-
2 ment; and

3 (B) is not otherwise barred or prohibited
4 from serving as Director under Federal ethics
5 laws and regulations, by reason of post-employ-
6 ment conflict of interest.

7 (2) RATE OF PAY.—The Director shall be paid
8 at the rate of basic pay payable for level IV of the
9 Executive Schedule under section 5315 of title 5,
10 United States Code.

11 (h) STAFF.—

12 (1) PAY OF PERSONNEL.—Subject to para-
13 graphs (2) and (3), the Director, with the approval
14 of the Commission, may appoint and fix the pay of
15 additional personnel.

16 (2) EXEMPTION FROM CERTAIN REQUIRE-
17 MENTS.—The Director may make such appoint-
18 ments without regard to the provisions of title 5,
19 United States Code, governing appointments in the
20 competitive service, and any personnel so appointed
21 may be paid without regard to the provisions of
22 chapter 51 and subchapter III of chapter 53 of that
23 title relating to classification and General Schedule
24 pay rates, except that an individual so appointed
25 may not receive pay in excess of the annual rate of

1 basic pay payable for GS-15 of the General Sched-
2 ule.

3 (3) DETAILEES.—

4 (A) LIMITATION ON NUMBER.—Not more
5 than two-thirds of the personnel employed by or
6 detailed to the Commission may be on detail
7 from the Department of Veterans Affairs.

8 (B) PROFESSIONAL ANALYSTS.—Not more
9 than half of the professional analysts of the
10 Commission staff may be persons detailed from
11 the Department of Veterans Affairs to the
12 Commission.

13 (C) PROHIBITION ON DETAIL OF CERTAIN
14 PERSONNEL.—A person may not be detailed
15 from the Department of Veterans Affairs to the
16 Commission if, within 12 months before the de-
17 tail is to begin, that person participated person-
18 ally and substantially in any matter within the
19 Department of Veterans Affairs concerning the
20 preparation of recommendations regarding fa-
21 cilities of the Veterans Health Administration.

22 (4) AUTHORITY TO REQUEST DETAILED PER-
23 SONNEL.—Subject to paragraph (3), the head of any
24 Federal department or agency, upon the request of
25 the Director, may detail any of the personnel of that

1 department or agency to the Commission to assist
2 the Commission in carrying out its duties under this
3 title.

4 (5) INFORMATION FROM FEDERAL AGENCIES.—

5 The Commission may secure directly from any Fed-
6 eral agency such information the Commission con-
7 siders necessary to carry out this title. Upon request
8 of the Chair, the head of such agency shall furnish
9 such information to the Commission.

10 (i) OTHER AUTHORITY.—

11 (1) TEMPORARY AND INTERMITTENT SERV-

12 ICES.—The Commission may procure by contract, to
13 the extent funds are available, the temporary or
14 intermittent services of experts or consultants pursu-
15 ant to section 3109 of title 5, United States Code.

16 (2) LEASING AND ACQUISITION OF PROP-

17 erty.—To the extent funds are available, the Com-
18 mission may lease real property and acquire personal
19 property either of its own accord or in consultation
20 with the General Services Administration.

21 (j) TERMINATION.—The Commission shall terminate

22 on December 31, 2019.

23 (k) PROHIBITION AGAINST RESTRICTING COMMU-

24 nications.—

1 (1) IN GENERAL.—Except as provided in para-
2 graph (2), no person may restrict an employee of the
3 Department of Veterans Affairs in communicating
4 with the Commission.

5 (2) UNLAWFUL COMMUNICATIONS.—Paragraph
6 (1) does not apply to a communication that is un-
7 lawful.

8 **SEC. 403. PROCEDURE FOR MAKING RECOMMENDATIONS.**

9 (a) SELECTION CRITERIA.—

10 (1) PUBLICATION; PUBLIC COMMENT.—The
11 Secretary shall, by no later than January 15, 2018,
12 publish in the Federal Register and transmit to the
13 Committees on Veterans' Affairs of the Senate and
14 the House of Representatives the criteria proposed
15 to be used by the Department of Veterans Affairs in
16 assessing and making recommendations regarding
17 the closure, modernization, or realignment of facili-
18 ties of the Veterans Health Administration under
19 this title. The Secretary shall provide an opportunity
20 for public comment on the proposed criteria for a
21 period of at least 30 days and shall include notice
22 of that opportunity in the publication required under
23 the preceding sentence.

24 (2) PUBLICATION OF FINAL CRITERIA.—The
25 Secretary shall, by no later than March 1, 2018,

1 publish in the Federal Register and transmit to the
2 Committees on Veterans' Affairs of the Senate and
3 the House of Representatives the final criteria to be
4 used in making recommendations regarding the clo-
5 sure, modernization, or realignment of facilities of
6 the Veterans Health Administration under this title.

7 (b) RECOMMENDATIONS OF THE SECRETARY.—

8 (1) PUBLICATION IN FEDERAL REGISTER.—The
9 Secretary shall, by no later than November 30,
10 2018, publish in the Federal Register and transmit
11 to the Committees on Veterans' Affairs of the Sen-
12 ate and the House of Representatives and to the
13 Commission a report detailing the recommendations
14 regarding the closure, modernization, or realignment
15 of facilities of the Veterans Health Administration
16 on the basis of the final criteria referred to in sub-
17 section (a)(2) that are applicable.

18 (2) FACTORS FOR CONSIDERATION.—In making
19 recommendations under this subsection, the Sec-
20 retary shall consider each of the following factors:

21 (A) The degree to which any health care
22 delivery or other site for providing services to
23 veterans reflect the metrics of the Department
24 of Veterans Affairs regarding market area
25 health system planning.

1 (B) The provision of effective and efficient
2 access to high-quality health care and services
3 for veterans.

4 (C) The extent to which the real property
5 that no longer meets the needs of the Federal
6 Government could be reconfigured, repurposed,
7 consolidated, realigned, exchanged, outleased,
8 repurposed, replaced, sold, or disposed.

9 (D) The need of the Veterans Health Ad-
10 ministration to acquire infrastructure or facili-
11 ties that will be used for the provision of health
12 care and services to veterans.

13 (E) The extent to which the operating and
14 maintenance costs are reduced through consoli-
15 dating, colocating, and reconfiguring space, and
16 through realizing other operational efficiencies.

17 (F) The extent and timing of potential
18 costs and savings, including the number of
19 years such costs or savings will be incurred, be-
20 ginning with the date of completion of the pro-
21 posed recommendation.

22 (G) The extent to which the real property
23 aligns with the mission of the Department of
24 Veterans Affairs.

1 (H) The extent to which there are opportu-
2 nities to consolidate similar operations across
3 multiple agencies or within agencies.

4 (I) The extent to which any action would
5 impact other missions of the Department (in-
6 cluding education, research, or emergency pre-
7 paredness).

8 (J) Local stakeholder inputs and any fac-
9 tors identified through public field hearings.

10 (K) The assessments under paragraph (3).

11 (L) Any other such factors the Secretary
12 determines appropriate.

13 (3) CAPACITY AND COMMERCIAL MARKET AS-
14 SESSMENTS.—

15 (A) ASSESSMENTS.—The Secretary shall
16 assess the capacity of each Veterans Integrated
17 Service Network and medical facility of the De-
18 partment to furnish hospital care or medical
19 services to veterans under chapter 17 of title
20 38, United States Code. Each such assessment
21 shall—

22 (i) identify existing deficiencies in the
23 furnishing of such care or services to vet-
24 erans at such Veterans Integrated Service
25 Network and medical facility; and

1 (ii) identify how such deficiencies may
2 be filled by—

3 (I) entering into contracts or
4 agreements with community health
5 care providers or other entities under
6 other provisions of law; and

7 (II) changing the way such care
8 or services are furnished at such Vet-
9 erans Integrated Service Network and
10 medical facility;

11 (iii) forecast both the short-term and
12 long-term demand in furnishing such care
13 or services at such Veterans Integrated
14 Service Network and medical facility;

15 (iv) assess how demand identified
16 under clause (iii) affects the need to enter
17 into contracts or agreements under clause
18 (ii)(I); and

19 (v) assess the commercial health care
20 market of designated catchment areas in
21 the United States conducted by a non-gov-
22 ernmental entity.

23 (B) SUBMITTAL.—The Secretary shall sub-
24 mit such assessments to the Committees on
25 Veterans' Affairs of the House of Representa-

1 tives and the Senate with the recommendations
2 of the Secretary under this subsection and
3 make the assessments publicly available.

4 (4) SUMMARY OF SELECTION PROCESS.—The
5 Secretary shall include, with the list of recommenda-
6 tions published and transmitted pursuant to para-
7 graph (1), a summary of the selection process that
8 resulted in the recommendation for each facility of
9 the Veterans Health Administration, including a jus-
10 tification for each recommendation. The Secretary
11 shall transmit the matters referred to in the pre-
12 ceding sentence not later than 7 days after the date
13 of the transmittal to the Committees on Veterans’
14 Affairs of the Senate and the House of Representa-
15 tives and the Commission of the report referred to
16 in paragraph (1).

17 (5) TREATMENT OF FACILITIES.—In assessing
18 facilities of the Veterans Health Administration, the
19 Secretary shall consider all such facilities equally
20 without regard to whether the facility has been pre-
21 viously considered or proposed for reuse, closure,
22 modernization, or realignment by the Department of
23 Veterans Affairs.

24 (6) AVAILABILITY OF INFORMATION TO CON-
25 GRESS.—In addition to making all information used

1 by the Secretary to prepare the recommendations
2 under this subsection available to Congress (includ-
3 ing any committee or member of Congress), the Sec-
4 retary shall also make such information available to
5 the Commission and the Comptroller General of the
6 United States.

7 (7) CERTIFICATION OF ACCURACY.—

8 (A) IN GENERAL.—Each person referred to
9 in subparagraph (B), when submitting informa-
10 tion to the Secretary or the Commission con-
11 cerning the closure, modernization, or realign-
12 ment of a facility of the Veterans Health Ad-
13 ministration, shall certify that such information
14 is accurate and complete to the best of that
15 person's knowledge and belief.

16 (B) COVERED PERSONS.—Subparagraph
17 (A) applies to the following persons:

18 (i) Each Under Secretary of the De-
19 partment of Veterans Affairs.

20 (ii) Each director of a Veterans Inte-
21 grated Service Network.

22 (iii) Each director of a medical center
23 of the Department of Veterans Affairs.

24 (iv) Each director of a program office
25 of the Department of Veterans Affairs.

1 (v) Each person who is in a position
2 the duties of which include personal and
3 substantial involvement in the preparation
4 and submission of information and rec-
5 ommendations concerning the closure,
6 modernization, or realignment of facilities
7 of the Veterans Health Administration.

8 (c) REVIEW AND RECOMMENDATIONS BY THE COM-
9 MISSION.—

10 (1) PUBLIC HEARINGS.—

11 (A) IN GENERAL.—After receiving the rec-
12 ommendations from the Secretary pursuant to
13 subsection (b), the Commission shall conduct
14 public hearings on the recommendations.

15 (B) LOCATIONS.—To the greatest extent
16 practicable, the Commission shall conduct pub-
17 lic hearing in regions affected by a rec-
18 ommendation of the Secretary to close, mod-
19 ernize, or realign a facility of the Veterans
20 Health Administration.

21 (C) REQUIRED WITNESSES.—Each public
22 hearing shall include as witnesses—

23 (i) a veteran—

24 (I) enrolled under section 1705
25 of title 38, United States Code; and

1 (II) identified by a local veterans
2 service organization; and
3 (ii) a local elected official.

4 (D) OATHS.—All testimony before the
5 Commission at a public hearing conducted
6 under this paragraph shall be presented under
7 oath.

8 (2) TRANSMITTAL TO PRESIDENT.—

9 (A) IN GENERAL.—The Commission shall,
10 by no later than May 31, 2019, transmit to the
11 President a report containing the Commission’s
12 findings and conclusions based on a review and
13 analysis of the recommendations made by the
14 Secretary, together with the Commission’s rec-
15 ommendations, for closures, modernizations,
16 and realignments of facilities of the Veterans
17 Health Administration.

18 (B) AUTHORITY TO MAKE CHANGES TO
19 RECOMMENDATIONS.—Subject to subparagraph
20 (C), in making its recommendations, the Com-
21 mission may change any recommendation made
22 by the Secretary if the Commission—

23 (i) determines that the Secretary devi-
24 ated substantially from the final criteria

1 referred to in subsection (a)(2) in making
2 such recommendation;

3 (ii) determines that the change is con-
4 sistent with the final criteria referred to in
5 subsection (a)(2);

6 (iii) publishes a notice of the proposed
7 change in the Federal Register not less
8 than 45 days before transmitting its rec-
9 ommendations to the President pursuant
10 to subparagraph (A); and

11 (iv) conducts public hearings on the
12 proposed change.

13 (3) JUSTIFICATION FOR CHANGES.—The Com-
14 mission shall explain and justify in its report sub-
15 mitted to the President pursuant to paragraph (2)
16 any recommendation made by the Commission that
17 is different from the recommendations made by the
18 Secretary pursuant to subsection (b). The Commis-
19 sion shall transmit a copy of such report to the
20 Committees on Veterans' Affairs of the Senate and
21 the House of Representatives on the same date on
22 which it transmits its recommendations to the Presi-
23 dent under paragraph (2).

24 (4) PROVISION OF INFORMATION TO CON-
25 GRESS.—After May 31, 2019, the Commission shall

1 promptly provide, upon request, to any Member of
2 Congress information used by the Commission in
3 making its recommendations.

4 (d) REVIEW BY THE PRESIDENT.—

5 (1) REPORT.—The President shall, by no later
6 than June 14, 2019, transmit to the Commission
7 and to the Congress a report containing the Presi-
8 dent's approval or disapproval of the Commission's
9 recommendations.

10 (2) PRESIDENTIAL APPROVAL.—If the Presi-
11 dent approves all the recommendations of the Com-
12 mission, the President shall transmit a copy of such
13 recommendations to the Congress, together with a
14 certification of such approval.

15 (3) PRESIDENTIAL DISAPPROVAL.—If the
16 President disapproves the recommendations of the
17 Commission, in whole or in part, the President shall
18 transmit to the Commission and the Congress the
19 reasons for that disapproval. The Commission shall
20 then transmit to the President, by no later than
21 July 15, 2019, a revised list of recommendations for
22 closures, modernizations, and realignments of facili-
23 ties of the Veterans Health Administration.

24 (4) TRANSMITTAL OF RECOMMENDATIONS TO
25 CONGRESS.—If the President approves all of the re-

1 vised recommendations of the Commission trans-
2 mitted to the President under paragraph (3), the
3 President shall transmit a copy of such revised rec-
4 ommendations to the Congress, together with a cer-
5 tification of such approval.

6 (5) FAILURE TO TRANSMIT.—If the President
7 does not transmit to the Congress an approval and
8 certification described in paragraph (2) or (4) by
9 August 1, 2019, the process by which facilities of
10 the Veterans Health Administration may be selected
11 for closure, modernization, or realignment under this
12 title shall be terminated.

13 **SEC. 404. ACTIONS REGARDING INFRASTRUCTURE AND FA-**
14 **CILITIES OF THE VETERANS HEALTH ADMIN-**
15 **ISTRATION.**

16 (a) IN GENERAL.—Subject to subsection (b), the Sec-
17 retary shall—

18 (1) close all facilities of the Veterans Health
19 Administration recommended for closure by the
20 Commission in each report transmitted to the Con-
21 gress by the President pursuant to section 403(d);

22 (2) modernize all facilities of the Veterans
23 Health Administration recommended for moderniza-
24 tion by such Commission in each such report;

1 (3) realign all facilities of the Veterans Health
2 Administration recommended for realignment by
3 such Commission in each such report; and

4 (4) initiate, or begin the planning of, all such
5 closures, modernizations, and realignments no later
6 than three years after the date on which the Presi-
7 dent transmits a report to the Congress pursuant to
8 section 403(d) containing the recommendations for
9 such closures, modernizations, or realignments.

10 (b) CONGRESSIONAL DISAPPROVAL.—

11 (1) IN GENERAL.—The Secretary may not carry
12 out any closure, modernization, or realignment rec-
13 ommended by the Commission in a report trans-
14 mitted from the President pursuant to section
15 403(d) if a joint resolution is enacted, in accordance
16 with the provisions of section 407, disapproving such
17 recommendations of the Commission before the ear-
18 lier of—

19 (A) the end of the 45-day period beginning
20 on the date on which the President transmits
21 such report; or

22 (B) the adjournment of Congress sine die
23 for the session during which such report is
24 transmitted.

1 (2) COMPUTATION OF PERIOD.—For purposes
2 of paragraph (1) and subsections (a) and (c) of sec-
3 tion 407, the days on which either House of Con-
4 gress is not in session because of an adjournment of
5 more than three days to a day certain shall be ex-
6 cluded in the computation of a period.

7 **SEC. 405. IMPLEMENTATION.**

8 (a) IN GENERAL.—

9 (1) CLOSING, MODERNIZING, AND REALIGNING
10 FACILITIES.—In closing, modernizing, or realigning
11 any facility of the Veterans Health Administration
12 under this title, the Secretary may—

13 (A) take such actions as may be necessary
14 to close, modernize, or realign any such facility,
15 including the acquisition of such land, the con-
16 struction of such replacement facilities, the per-
17 formance of such activities, and the conduct of
18 such advance planning and design as may be
19 required to transfer functions from a facility of
20 the Veterans Health Administration to another
21 such facility, and may use for such purpose
22 funds in the Account or funds appropriated to
23 the Department of Veterans Affairs for such
24 purposes;

1 (B) carry out activities for the purposes of
2 environmental restoration and mitigation at any
3 such facility, and shall use for such purposes
4 funds in the Account;

5 (C) provide outplacement assistance to em-
6 ployees employed by the Department of Vet-
7 erans Affairs at facilities of the Veterans
8 Health Administration being closed or re-
9 aligned, and may use for such purpose funds in
10 the Account or funds appropriated to the De-
11 partment of Veterans Affairs for outplacement
12 assistance to employees;

13 (D) reimburse other Federal agencies for
14 actions performed at the request of the Sec-
15 retary with respect to any such closure or re-
16 alignment, and may use for such purpose funds
17 in the Account or funds appropriated to the De-
18 partment of Veterans Affairs and available for
19 such purpose; and

20 (E) exercise the authority of the Secretary
21 under subchapter V of chapter 81 of title 38,
22 United States Code.

23 (2) ENVIRONMENTAL RESTORATION; HISTORIC
24 PRESERVATION.—In carrying out any closure or re-
25 alignment under this title, the Secretary, with re-

1 gards to any property made excess to the needs of
2 the Department of Veterans Affairs as a result of
3 such closure or realignment, shall carry out, as soon
4 as possible with funds available for such purpose,
5 any of the following for which the Secretary is re-
6 sponsible.

7 (A) Environmental abatement.

8 (B) Environmental remediation,

9 (C) Compliance with historic preservation
10 requirements.

11 (b) MANAGEMENT AND DISPOSAL OF PROPERTY.—

12 (1) EFFECTS OF LOCAL COMMUNITIES.—

13 (A) CONSULTATION WITH STATE AND
14 LOCAL GOVERNMENT.—Before any action may
15 be taken with respect to the disposal of any
16 surplus real property or infrastructure located
17 at any facility of the Veterans Health Adminis-
18 tration to be closed or realigned under this title,
19 the Secretary of Veterans Affairs or Adminis-
20 trator of General Services shall consult with the
21 Governor of the State and the heads of the local
22 governments concerned for the purpose of con-
23 sidering any plan for the use of such property
24 by the local community concerned.

1 (B) TREATMENT OF ROADS.—If infra-
2 structure or a facility of the Veterans Health
3 Administration to be closed or realigned under
4 this title includes a road used for public access
5 through, into, or around the facility, the Sec-
6 retary shall consult with the Governor of the
7 State and the heads of the local governments
8 concerned for the purpose of considering the
9 continued availability of the road for public use
10 after the recommended action is complete.

11 (2) LEASES; CERCLA.—

12 (A) LEASE AUTHORITY.—

13 (i) TRANSFER TO REDEVELOPMENT
14 AUTHORITY FOR LEASE.—The Secretary
15 may transfer title to a facility of the Vet-
16 erans Health Administration approved for
17 closure or realignment under this title (in-
18 cluding property at a facility of the Vet-
19 erans Health Administration approved for
20 realignment which will be retained by the
21 Department of Veterans Affairs or another
22 Federal agency after realignment) to the
23 redevelopment authority for the facility if
24 the redevelopment authority agrees to
25 lease, directly upon transfer, one or more

1 portions of the property transferred under
2 this subparagraph to the Secretary or to
3 the head of another department or agency
4 of the Federal Government.

5 (ii) TERM OF LEASE.—A lease under
6 clause (i) shall be for a term of not to ex-
7 ceed 50 years, but may provide for options
8 for renewal or extension of the term by the
9 department or agency concerned.

10 (iii) LIMITATION.—A lease under
11 clause (i) may not require rental payments
12 by the United States.

13 (iv) TREATMENT OF REMAINDERED
14 LEASE TERMS.—A lease under clause (i)
15 shall include a provision specifying that if
16 the department or agency concerned ceases
17 requiring the use of the leased property be-
18 fore the expiration of the term of the lease,
19 the remainder of the lease term may be
20 satisfied by the same or another depart-
21 ment or agency of the Federal Government
22 using the property for a use similar to the
23 use under the lease. Exercise of the au-
24 thority provided by this clause shall be

1 made in consultation with the redevelop-
2 ment authority concerned.

3 (v) FACILITY SERVICES.—Notwith-
4 standing clause (iii), if a lease under clause
5 (i) involves a substantial portion of the fa-
6 cility, the department or agency concerned
7 may obtain facility services for the leased
8 property and common area maintenance
9 from the redevelopment authority or the
10 redevelopment authority's assignee as a
11 provision of the lease. The facility services
12 and common area maintenance shall be
13 provided at a rate no higher than the rate
14 charged to non-Federal tenants of the
15 transferred property. Facility services and
16 common area maintenance covered by the
17 lease shall not include—

18 (I) municipal services that a
19 State or local government is required
20 by law to provide to all landowners in
21 its jurisdiction without direct charge;
22 or

23 (II) firefighting or security-guard
24 functions.

1 (B) APPLICATION OF CERCLA.—The provi-
2 sions of section 120(h) of the Comprehensive
3 Environmental Response, Compensation, and
4 Liability Act of 1980 (42 U.S.C. 9620(h)) shall
5 apply to any transfer of real property under
6 this paragraph.

7 (C) ADDITIONAL TERMS AND CONDI-
8 TIONS.—The Secretary may require any addi-
9 tional terms and conditions in connection with
10 a transfer under this paragraph as such Sec-
11 retary considers appropriate to protect the in-
12 terests of the United States.

13 (3) FINAL DETERMINATIONS.—

14 (A) IN GENERAL.—Except as provided in
15 subparagraph (B), the Secretary shall take such
16 actions as the Secretary determines necessary
17 to ensure that final determinations under para-
18 graph (1) regarding whether another depart-
19 ment or agency of the Federal Government has
20 identified a use for any portion of a facility of
21 the Veterans Health Administration to be
22 closed or realigned under this title, or will ac-
23 cept transfer of any portion of such facility, are
24 made not later than six months after the date

1 of approval of closure or realignment of that fa-
2 cility.

3 (B) POSTPONEMENT OF FINAL DETER-
4 MINATIONS.—The Secretary may, in consulta-
5 tion with the redevelopment authority with re-
6 spect to a facility of the Veterans Health Ad-
7 ministration, postpone making the final deter-
8 minations referred to in subparagraph (A) with
9 respect to the facility for such period as the
10 Secretary determines appropriate if the Sec-
11 retary determines that such postponement is in
12 the best interests of the communities affected
13 by the closure or realignment of the facility.

14 (4) APPLICATION OF MCKINNEY-VENTO HOME-
15 LESS ASSISTANCE ACT.—Nothing in this title shall
16 limit or otherwise affect the application of the provi-
17 sions of the McKinney-Vento Homeless Assistance
18 Act (42 U.S.C. 11301 et seq.) to facilities of the
19 Veterans Health Administration closed under this
20 title.

21 (c) APPLICABILITY OF NATIONAL ENVIRONMENTAL
22 POLICY ACT OF 1969.—

23 (1) IN GENERAL.—The provisions of the Na-
24 tional Environmental Policy Act of 1969 (42 U.S.C.
25 4321 et seq.) shall not apply to the actions of the

1 President, the Commission, and, except as provided
2 in paragraph (2), the Department of Veterans Af-
3 fairs in carrying out this title.

4 (2) DEPARTMENT OF VETERANS AFFAIRS.—

5 (A) COVERED ACTIVITIES.—The provisions
6 of the National Environmental Policy Act of
7 1969 shall apply to actions of the Department
8 of Veterans Affairs under this title—

9 (i) during the process of property dis-
10 posal; and

11 (ii) during the process of relocating
12 functions from a facility of the Veterans
13 Health Administration being closed or re-
14 aligned to another facility after the receiv-
15 ing facility has been selected but before the
16 functions are relocated.

17 (B) OTHER ACTIVITIES.—In applying the
18 provisions of the National Environmental Policy
19 Act of 1969 to the processes referred to in sub-
20 paragraph (A), the Secretary shall not have to
21 consider—

22 (i) the need for closing or realigning
23 the facility of the Veterans Health Admin-
24 istration as recommended by the Commis-
25 sion;

1 (ii) the need for transferring functions
2 to any facility of the Veterans Health Ad-
3 ministration which has been selected as the
4 receiving facility; or

5 (iii) facilities of the Veterans Health
6 Administration alternative to those rec-
7 ommended or selected.

8 (d) WAIVER.—The Secretary may close or realign fa-
9 cilities of the Veterans Health Administration under this
10 title without regard to any provision of law restricting the
11 use of funds for closing or realigning facilities of the Vet-
12 erans Health Administration included in any appropria-
13 tions or authorization Act.

14 (e) TRANSFER AUTHORITY IN CONNECTION WITH
15 PAYMENT OF ENVIRONMENTAL REMEDIATION COSTS.—

16 (1) IN GENERAL.—

17 (A) TRANSFER BY DEED.—Subject to
18 paragraph (2) of this subsection and section
19 120(h) of the Comprehensive Environmental
20 Response, Compensation, and Liability Act of
21 1980 (42 U.S.C. 9620(h)), the Secretary may
22 enter into an agreement to transfer by deed a
23 facility of the Veterans Health Administration
24 with any person who agrees to perform all envi-
25 ronmental restoration, waste management, and

1 environmental compliance activities that are re-
2 quired for the property or facilities under Fed-
3 eral and State laws, administrative decisions,
4 agreements (including schedules and mile-
5 stones), and concurrences.

6 (B) ADDITIONAL TERMS OR CONDI-
7 TIONS.—The Secretary may require any addi-
8 tional terms and conditions in connection with
9 an agreement authorized by subparagraph (A)
10 as the Secretary considers appropriate to pro-
11 tect the interests of the United States.

12 (2) LIMITATION.—A transfer of a facility of the
13 Veterans Health Administration may be made under
14 paragraph (1) only if the Secretary certifies to Con-
15 gress that—

16 (A) the costs of all environmental restora-
17 tion, waste management, and environmental
18 compliance activities otherwise to be paid by the
19 Secretary with respect to the facility of the Vet-
20 erans Health Administration are equal to or
21 greater than the fair market value of the prop-
22 erty or facilities to be transferred, as deter-
23 mined by the Secretary; or

24 (B) if such costs are lower than the fair
25 market value of the facility of the Veterans

1 Health Administration, the recipient of such
2 transfer agrees to pay the difference between
3 the fair market value and such costs.

4 (3) PAYMENT BY THE SECRETARY FOR CER-
5 TAIN TRANSFERS.—In the case of a facility of the
6 Veterans Health Administration covered by a certifi-
7 cation under paragraph (2)(A), the Secretary may
8 pay the recipient of such facility an amount equal to
9 the lesser of—

10 (A) the amount by which the costs in-
11 curred by the recipient of the facility of the
12 Veterans Health Administration for all environ-
13 mental restoration, waste, management, and en-
14 vironmental compliance activities with respect
15 to such facility exceed the fair market value of
16 such property as specified in such certification;
17 or

18 (B) the amount by which the costs (as de-
19 termined by the Secretary) that would other-
20 wise have been incurred by the Secretary for
21 such restoration, management, and activities
22 with respect to such facility of the Veterans
23 Health Administration exceed the fair market
24 value of property as so specified.

1 (4) DISCLOSURE.—As part of an agreement
2 under paragraph (1), the Secretary shall disclose to
3 the person to whom the facility of the Veterans
4 Health Administration will be transferred any infor-
5 mation of the Secretary regarding the environmental
6 restoration, waste management, and environmental
7 compliance activities described in paragraph (1) that
8 relate to the facility of the Veterans Health Admin-
9 istration. The Secretary shall provide such informa-
10 tion before entering into the agreement.

11 (5) APPLICABILITY OF CERTAIN ENVIRON-
12 MENTAL LAWS.—Nothing in this subsection shall be
13 construed to modify, alter, or amend the Com-
14 prehensive Environmental Response, Compensation,
15 and Liability Act of 1980 (42 U.S.C. 9601 et seq.)
16 or the Solid Waste Disposal Act (42 U.S.C. 6901 et
17 seq.).

18 **SEC. 406. DEPARTMENT OF VETERANS AFFAIRS ASSET AND**
19 **INFRASTRUCTURE REVIEW ACCOUNT.**

20 (a) ESTABLISHMENT.—There is hereby established
21 on the books of the Treasury an account to be known as
22 the “Department of Veterans Affairs Asset and Infra-
23 structure Review Account” which shall be administered by
24 the Secretary as a single account.

1 (b) CREDITS TO ACCOUNT.—There shall be credited
2 to the Account the following:

3 (1) Funds authorized for and appropriated to
4 the Account.

5 (2) Funds that the Secretary may transfer to
6 the Account from funds appropriated to the Depart-
7 ment of Veterans Affairs for any purpose, except
8 that funds may be transferred under the authority
9 of this paragraph only after the latter of the dates
10 on which the Secretary—

11 (A) transmits written notice of, and jus-
12 tification for, such transfer to the Committees
13 on Veterans' Affairs of the Senate and the
14 House of Representatives; and

15 (B) receives approval of such transfer from
16 the Committees on Appropriations of the House
17 of Representatives and the Senate.

18 (3) Proceeds received from the lease, transfer,
19 or disposal of any property at a facility of the Vet-
20 erans Health Administration closed or realigned
21 under this title.

22 (c) USE OF ACCOUNT.—The Secretary may use the
23 funds in the Account only for the following purposes:

24 (1) To carry out this title.

1 (2) To cover property management and disposal
2 costs incurred at facilities of the Veterans Health
3 Administration closed, modernized, or realigned
4 under this title.

5 (3) To cover costs associated with supervision,
6 inspection, overhead, engineering, and design of con-
7 struction projects undertaken under this title, and
8 subsequent claims, if any, related to such activities.

9 (4) Other purposes that the Secretary deter-
10 mines support the mission and operations of the De-
11 partment of Veterans Affairs.

12 (d) CONSOLIDATED BUDGET JUSTIFICATION DIS-
13 PLAY FOR ACCOUNT.—

14 (1) CONSOLIDATED BUDGET INFORMATION RE-
15 QUIRED.—The Secretary shall establish a consoli-
16 dated budget justification display in support of the
17 Account that for each fiscal year—

18 (A) details the amount and nature of cred-
19 its to, and expenditures from, the Account dur-
20 ing the preceding fiscal year;

21 (B) separately details the environmental
22 remediation costs associated with facility of the
23 Veterans Health Administration for which a
24 budget request is made;

1 (C) specifies the transfers into the Account
2 and the purposes for which these transferred
3 funds will be further obligated, to include care-
4 taker and environment remediation costs associ-
5 ated with each facility of the Veterans Health
6 Administration; and

7 (D) details any intra-budget activity trans-
8 fers within the Account that exceeded
9 \$1,000,000 during the preceding fiscal year or
10 that are proposed for the next fiscal year and
11 will exceed \$1,000,000.

12 (2) SUBMISSION.—The Secretary shall include
13 the information required by paragraph (1) in the
14 materials that the Secretary submits to Congress in
15 support of the budget for a fiscal year submitted by
16 the President pursuant to section 1105 of title 31,
17 United States Code.

18 (e) CLOSURE OF ACCOUNT; TREATMENT OF REMAIN-
19 ING FUNDS.—

20 (1) CLOSURE.—The Account shall be closed at
21 the time and in the manner provided for appropria-
22 tion accounts under section 1555 of title 31, United
23 States Code, except that unobligated funds which re-
24 main in the Account upon closure shall be held by
25 the Secretary of the Treasury until transferred to

1 the Secretary of Veterans Affairs by law after the
2 Committees on Veterans' Affairs of the Senate and
3 the House of Representatives receive the final report
4 transmitted under paragraph (2).

5 (2) FINAL REPORT.—No later than 60 days
6 after the closure of the Account under paragraph
7 (1), the Secretary shall transmit to the Committees
8 on Veterans' Affairs of the Senate and the House of
9 Representatives and the Committees on Appropria-
10 tions of the House of Representatives and the Sen-
11 ate a report containing an accounting of—

12 (A) all the funds credited to and expended
13 from the Account or otherwise expended under
14 this title; and

15 (B) any funds remaining in the Account.

16 **SEC. 407. CONGRESSIONAL CONSIDERATION OF COMMIS-**
17 **SION REPORT.**

18 (a) TERMS OF THE RESOLUTION.—For purposes of
19 section 404(b), the term “joint resolution” means only a
20 joint resolution which is introduced within the 10-day pe-
21 riod beginning on the date on which the President trans-
22 mits the report to the Congress under section 403(d),
23 and—

24 (1) which does not have a preamble;

1 (2) the matter after the resolving clause of
2 which is as follows: “that Congress disapproves the
3 recommendations of the VHA Asset and Infrastruc-
4 ture Review Commission as submitted by the Presi-
5 dent on _____”, the blank space being filled with
6 the appropriate date; and

7 (3) the title of which is as follows: “Joint reso-
8 lution disapproving the recommendations of the
9 VHA Asset and Infrastructure Review Commis-
10 sion.”.

11 (b) REFERRAL.—A resolution described in subsection
12 (a) that is introduced in the House of Representatives
13 shall be referred to the Committee on Veterans’ Affairs
14 of the House of Representatives. A resolution described
15 in subsection (a) introduced in the Senate shall be referred
16 to the Committee on Veterans Affairs’ of the Senate.

17 (c) DISCHARGE.—If the committee to which a resolu-
18 tion described in subsection (a) is referred has not re-
19 ported such resolution (or an identical resolution) by the
20 end of the 20-day period beginning on the date on which
21 the President transmits the report to the Congress under
22 section 403(d), such committee shall be, at the end of such
23 period, discharged from further consideration of such reso-
24 lution, and such resolution shall be placed on the appro-
25 priate calendar of the House involved.

1 (d) CONSIDERATION.—

2 (1) IN GENERAL.—On or after the third day
3 after the date on which the committee to which such
4 a resolution is referred has reported, or has been
5 discharged (under subsection (c)) from further con-
6 sideration of, such a resolution, it is in order (even
7 though a previous motion to the same effect has
8 been disagreed to) for any Member of the respective
9 House to move to proceed to the consideration of the
10 resolution. A Member may make the motion only on
11 the day after the calendar day on which the Member
12 announces to the House concerned the Member's in-
13 tention to make the motion, except that, in the case
14 of the House of Representatives, the motion may be
15 made without such prior announcement if the mo-
16 tion is made by direction of the committee to which
17 the resolution was referred. All points of order
18 against the resolution (and against consideration of
19 the resolution) are waived. The motion is highly
20 privileged in the House of Representatives and is
21 privileged in the Senate and is not debatable. The
22 motion is not subject to amendment, or to a motion
23 to postpone, or to a motion to proceed to the consid-
24 eration of other business. A motion to reconsider the
25 vote by which the motion is agreed to or disagreed

1 to shall not be in order. If a motion to proceed to
2 the consideration of the resolution is agreed to, the
3 respective House shall immediately proceed to con-
4 sideration of the joint resolution without intervening
5 motion, order, or other business, and the resolution
6 shall remain the unfinished business of the respec-
7 tive House until disposed of.

8 (2) DEBATE; PROCEDURE.—Debate on the res-
9 olution, and on all debatable motions and appeals in
10 connection therewith, shall be limited to not more
11 than two hours, which shall be divided equally be-
12 tween those favoring and those opposing the resolu-
13 tion. An amendment to the resolution is not in
14 order. A motion further to limit debate is in order
15 and not debatable. A motion to postpone, or a mo-
16 tion to proceed to the consideration of other busi-
17 ness, or a motion to recommit the resolution is not
18 in order. A motion to reconsider the vote by which
19 the resolution is agreed to or disagreed to is not in
20 order.

21 (3) VOTE ON FINAL PASSAGE.—Immediately
22 following the conclusion of the debate on a resolu-
23 tion described in subsection (a) and a single quorum
24 call at the conclusion of the debate if requested in
25 accordance with the rules of the appropriate House,

1 the vote on final passage of the resolution shall
2 occur.

3 (4) APPEALS.—Appeals from the decisions of
4 the Chair relating to the application of the rules of
5 the Senate or the House of Representatives, as the
6 case may be, to the procedure relating to a resolu-
7 tion described in subsection (a) shall be decided
8 without debate.

9 (e) CONSIDERATION BY OTHER HOUSE.—

10 (1) CONCURRENT CONSIDERATION.—If, before
11 the passage by one House of a resolution of that
12 House described in subsection (a), that House re-
13 ceives from the other House a resolution described
14 in subsection (a), then the following procedures shall
15 apply:

16 (A) The resolution of the other House shall
17 not be referred to a committee and may not be
18 considered in the House receiving it except in
19 the case of final passage as provided in sub-
20 paragraph (B).

21 (B) With respect to a resolution described
22 in subsection (a) of the House receiving the res-
23 olution, the procedure in that House shall be
24 the same as if no resolution had been received
25 from the other House, but the vote on final pas-

1 sage shall be on the resolution of the other
2 House.

3 (2) DISPOSITION.—Upon disposition of the res-
4 olution received from the other House, it shall no
5 longer be in order to consider the resolution that
6 originated in the receiving House.

7 (f) RULES OF THE SENATE AND HOUSE.—This sec-
8 tion is enacted by Congress—

9 (1) as an exercise of the rulemaking power of
10 the Senate and House of Representatives, respec-
11 tively, and as such it is deemed a part of the rules
12 of each House, respectively, but applicable only with
13 respect to the procedure to be followed in that
14 House in the case of a resolution described in sub-
15 section (a), and it supersedes other rules only to the
16 extent that it is inconsistent with such rules; and

17 (2) with full recognition of the constitutional
18 right of either House to change the rules (so far as
19 relating to the procedure of that House) at any time,
20 in the same manner, and to the same extent as in
21 the case of any other rule of that House.

22 **SEC. 408. DEFINITIONS.**

23 In this title:

1 (1) The term “Account” means the Department
2 of Veterans Affairs Asset and Infrastructure Review
3 Account established by section 406(a).

4 (2) The term “Commission” means the Com-
5 mission established by section 402.

6 (3) The term “date of approval”, with respect
7 to a closure, modernization, or realignment of a fa-
8 cility of the Veterans Health Administration, means
9 the date on which the authority of Congress to dis-
10 approve a recommendation of closure or realign-
11 ment, as the case may be, of such facility under this
12 title expires.

13 (4) The term “facility of the Veterans Health
14 Administration”—

15 (A) means any land, building, structure, or
16 infrastructure (including any medical center,
17 nursing home, domiciliary facility, outpatient
18 clinic, center that provides readjustment coun-
19 seling, or leased facility) that is—

20 (i) under the jurisdiction of the De-
21 partment of Veterans Affairs;

22 (ii) under the control of the Veterans
23 Health Administration; and

24 (iii) not under the control of the Gen-
25 eral Services Administration; or

1 (B) with respect to a colocated facility of
2 the Department of Veterans Affairs, includes
3 any land, building, or structure—

4 (i) under the jurisdiction of the De-
5 partment of Veterans Affairs;

6 (ii) under the control of another ad-
7 ministration of the Department of Vet-
8 erans Affairs; and

9 (iii) not under the control of the Gen-
10 eral Services Administration.

11 (5) The term “infrastructure” means improve-
12 ments to land other than buildings or structures.

13 (6) The term “modernization” includes—

14 (A) any action required to align the form
15 and function of a facility of the Veterans
16 Health Administration to the provision of mod-
17 ern day health care, including utilities and envi-
18 ronmental control systems; and

19 (B) realignments, disposals, exchanges, col-
20 laborations between the Department of Vet-
21 erans Affairs and other Federal entities, and
22 strategic collaborations between the Depart-
23 ment and non-Federal entities.

1 (7) The term “realignment”, with respect to a
2 facility of the Veterans Health Administration, in-
3 cludes—

4 (A) any action that changes the numbers
5 of or relocates services, functions, and per-
6 sonnel positions;

7 (B) disposals or exchanges between the
8 Department of Veterans Affairs and other Fed-
9 eral entities, including the Department of De-
10 fense; and

11 (C) strategic collaborations between the
12 Department of Veterans Affairs and non-Fed-
13 eral entities.

14 (8) The term “Secretary” means the Secretary
15 of Veterans Affairs.

16 (9) The term “redevelopment authority”, in the
17 case of a facility of the Veterans Health Administra-
18 tion closed or modernized under this title, means
19 any entity (including an entity established by a
20 State or local government) recognized by the Sec-
21 retary of Veterans Affairs as the entity responsible
22 for developing the redevelopment plan with respect
23 to the facility or for directing the implementation of
24 such plan.

1 (10) The term “redevelopment plan” in the
2 case of a facility of the Veterans Health Administra-
3 tion to be closed or realigned under this title, means
4 a plan that—

5 (A) is agreed to by the local redevelopment
6 authority with respect to the facility; and

7 (B) provides for the reuse or redevelop-
8 ment of the real property and personal property
9 of the facility that is available for such reuse
10 and redevelopment as a result of the closure or
11 realignment of the facility.