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107TH CONGRESS, 1st Session | HOUSE OF REPRESENTATIVES | REPORT 107–28

VETERANS HOSPITAL EMERGENCY REPAIR ACT

MARCH 26, 2001.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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

R E P O R T

[To accompany H.R. 811]

[Including cost estimate of the Congressional Budget Office]

The Committee on Veterans' Affairs, to whom was referred the bill (H.R. 811) to authorize the Secretary of Veterans Affairs to carry out construction projects for the purpose of improving, renovating, and updating patient care facilities at Department of Veterans Affairs medical centers, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans Hospital Emergency Repair Act".

SEC. 2. AUTHORIZATION OF MAJOR MEDICAL FACILITY PROJECTS FOR PATIENT CARE IMPROVEMENTS.

(a) IN GENERAL.—(1) The Secretary of Veterans Affairs is authorized to carry out major medical facility projects in accordance with this section, using funds appropriated for fiscal year 2002 or fiscal year 2003 pursuant to section 3. The cost of any such project may not exceed $25,000,000, except that up to two projects per year may be carried out at a cost not to exceed $30,000,000 for the purpose stated in subsection (c)(1).

(2) Projects carried out under this section are not subject to section 8104(a)(2) of title 38, United States Code.

(b) TYPE OF PROJECTS.—A project carried out under subsection (a) may be carried out only at a Department of Veterans Affairs medical center and only for the purpose of—

(1) improving a patient care facility;
(2) replacing a patient care facility;
(3) renovating a patient care facility;
(4) updating a patient care facility to contemporary standards; or
(5) improving, replacing, or renovating a research facility or updating such a facility to contemporary standards.

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(c) PURPOSE OF PROJECTS.—In selecting medical centers for projects under subsection (a), the Secretary shall select projects to improve, replace, renovate, or update facilities to achieve one or more of the following:

(1) Seismic protection improvements related to patient safety (or, in the case of a research facility, patient or employee safety).

(2) Fire safety improvements.

(3) Improvements to utility systems and ancillary patient care facilities (including such systems and facilities that may be exclusively associated with research facilities).

(4) Improved accommodation for persons with disabilities, including barrier-free access.

(5) Improvements at patient care facilities to specialized programs of the Department, including the following:

(A) Blind rehabilitation centers.

(B) Inpatient and residential programs for seriously mentally ill veterans, including mental illness research, education, and clinical centers.

(C) Residential and rehabilitation programs for veterans with substance-use disorders.

(D) Physical medicine and rehabilitation activities.

(E) Long-term care, including geriatric research, education, and clinical centers, adult day care centers, and nursing home care facilities.

(F) Amputation care, including facilities for prosthetics, orthotics programs, and sensory aids.

(G) Spinal cord injury centers.

(H) Traumatic brain injury programs.

(I) Women veterans' health programs (including particularly programs involving privacy and accommodation for female patients).

(J) Facilities for hospice and palliative care programs.

(d) REVIEW PROCESS.—(1) Before a project is submitted to the Secretary with a recommendation that it be approved as a project to be carried out under the authority of this section, the project shall be reviewed by a board within the Department of Veterans Affairs that is independent of the Veterans Health Administration and that is constituted by the Secretary to evaluate capital investment projects. The board shall review each such project to determine the project's relevance to the medical care mission of the Department and whether the project improves, renovates, repairs, or updates facilities of the Department in accordance with this section.

(2) In selecting projects to be carried out under the authority provided by this section, the Secretary shall consider the recommendations of the board under paragraph (1). In any case in which the Secretary selects a project to be carried out under this section that was not recommended for such approval by the board under paragraph (1), the Secretary shall include in the report of the Secretary under section 4(b) notice of such selection and the Secretary's reasons for not following the recommendation of the board with respect to that project.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Veterans Affairs for the Construction, Major Projects, account for projects under section 2—

(1) $250,000,000 for fiscal year 2002; and

(2) $300,000,000 for fiscal year 2003.

(b) LIMITATION.—Projects may be carried out under section 2 only using funds appropriated pursuant to the authorization of appropriations in subsection (a), except that funds appropriated for advance planning may be used for the purposes for which appropriated in connection with such projects.

SEC. 4. REPORTS.

(a) GAO REPORT.—Not later than April 1, 2003, the Comptroller General shall submit to the Committees on Veterans' Affairs and on Appropriations of the Senate and House of Representatives a report evaluating the advantages and disadvantages of congressional authorization for projects of the type described in section 2(b) through general authorization as provided by section 2(a), rather than through specific authorization as would otherwise be applicable under section 8104(a)(2) of title 38, United States Code. Such report shall include a description of the actions of the Secretary of Veterans Affairs during fiscal year 2002 to select and carry out projects under section 2.

(b) SECRETARY REPORT.—Not later than 120 days after the date on which the site for the final project under section 2 is selected, the Secretary shall submit to the committees referred to in subsection (a) a report on the authorization process under section 2. The Secretary shall include in the report the following:

(1) A listing by project of each such project selected by the Secretary under that section, together with a prospectus description of the purposes of the project, the estimated cost of the project, and a statement attesting to the review of the project under section 2(c), and, if that project was not recommended by the board, the Secretary's justification under section 2(d) for not following the recommendation of the board.

(2) An assessment of the utility to the Department of Veterans Affairs of that authorization process.

(3) Such recommendations as the Secretary considers appropriate for future congressional policy for authorizations of major and minor medical facility construction projects for the Department of Veterans Affairs.

(4) Any other matter that the Secretary considers to be appropriate with respect to oversight by Congress of capital facilities projects of the Department of Veterans Affairs.

INTRODUCTION

On March 1, 2001, the Chairman and Ranking Member of the Committee on Veterans' Affairs, the Honorable Christopher H. Smith and the Honorable Lane Evans and other cosponsors, introduced H.R. 811, the Veterans Hospital Emergency Repair Act. The bill would provide the Secretary of Veterans Affairs a specified major Veterans Affairs medical facility construction authority for fiscal years 2002 and 2003 for projects that cost less than $25 million each. Up to two projects in each of the two years could exceed this limitation if the purpose is for urgent seismic correction. The bill would authorize $250 million in appropriations for these purposes in FY 2002 and $300 million in FY 2003.

On March 13, 2001, the Committee on Veterans' Affairs held a hearing on the Veterans Hospital Emergency Repair Act. At its hearing, the Committee received testimony from three panels of witnesses, including the major veterans organizations and two panels of witnesses representing the Department of Veterans Affairs (VA). Witnesses representing the veterans organizations were Mr. Dennis Cullinan of the Veterans of Foreign Wars of the United States; Mr. Thomas Davies, A.I.A., of Paralyzed Veterans of America; Ms. Joy Ilem of the Disabled American Veterans; Mr. James Fischl of the American Legion; and Mr. Richard Jones of AMVETS (American Veterans of WWII, Korea and Vietnam).

The two VA panels were led by the Honorable Thomas L. Garthwaite, M.D., Undersecretary for Health, Veterans Health Administration (VHA), accompanied by Frances M. Murphy, MD, MPH, Deputy Undersecretary for Health; Mr. D. Mark Catlett, Acting Assistant Secretary for Management, Office of Financial Management; and, Mr. Charles Yarbrough, VHA Chief Facilities Management Officer. The VA's second panel consisted of VHA Veterans Integrated Service Network (VISN) Directors, including Mr. Lawrence A. Biro, Director, VISN 4 [Pennsylvania–Delaware]; Jeannette Chirico-Post, M.D., Director, VISN 1 [New England]; Mr. Kenneth Clark, Director VISN 22 [Southern California–Nevada]. Ms. Patricia A. Crosetti, M.B.A., Director, VISN 15 [Missouri–Kansas]; Mr. James J. Farsetta, Director, VISN 3 [New Jersey–New York City and lower Hudson Valley]; and, Robert L. Wiebe, M.D., Director, VISN 21 [Northern California–Nevada].

On the basis of this hearing and oversight on these matters, the Full Committee met on March 21, 2001, to mark up H.R. 811, the Veterans Hospital Emergency Repair Act. The bill was endorsed

unanimously by the Committee, and H.R. 811 was ordered reported favorably, as amended, to the House.

SUMMARY OF BILL

H.R. 811 would:

1. Authorize the Secretary of Veterans Affairs to carry out major medical facility construction projects in fiscal years 2002 and 2003, and would authorize appropriations of $250 million in fiscal year 2002 and $300 million in fiscal year 2003 for these purposes.
2. Authorize the Secretary to select patient care projects (and in certain circumstances, research facilities) for construction under this authority not to exceed $25 million for any single project; the Secretary could select two seismic correction projects in each of the two years estimated to cost up to $30 million.
3. Limit the type of project that could be funded under this authority to projects that would improve, replace, renovate or update facilities, including research facilities for patient safety, seismic protection, privacy, and accommodation for disabilities.
4. Authorize the Secretary to improve the various high-priority special disabilities programs of the Department.
5. Require the Secretary to consider recommendations of VA's independent board that reviews capital investment proposals in selecting projects under this authority.
6. Permit the Secretary to use the Advance Planning Fund to design projects selected under the purposes of this bill.
7. Require the Secretary and the Comptroller General to make reports to Congress on projects selected under this authority, their purposes and costs, the results of the authorization process, and recommendations for amending or extending this authority, and other appropriate recommendations.

BACKGROUND AND DISCUSSION

The Committee has identified the need for Congress to address what has become a troubling and lingering problem in some of our Nation's veterans hospitals: a crumbling, substandard and sometimes unsafe patient care infrastructure in the Department of Veterans Affairs (VA). The problem includes VA patient care buildings that could collapse in earthquakes.

Many VA hospitals are deteriorating because VA is encountering increasing difficulty in obtaining funding to update, modernize and renovate patient care facilities for veterans in need of care. For the past several years, the Committee has noted that the President's annual budgets for VA health care have requested little or no funding for major medical facility construction projects for America's veterans. Only six such projects were proposed in the past three budget submissions to Congress. Only one project appeared in the fiscal year 2001 budget request, but no funds were appropriated by Congress in fiscal year 2001. Nevertheless, a number of major medical facility projects totaling $115.9 million were authorized for fiscal year 2001 in Public Law 106–419:

—seismic project at the Long Beach VA Medical Center;

—120-bed gero-psychiatric unit replacement at Palo Alto's Menlo Park campus, which included seismic reinforcement;

—replacement of 32-year old electrical vault and wiring harness at the Miami VA Medical Center, destroyed in a fire in April 2000; and,

—nursing home unit at Beckley WV Medical Center.

Also, in the same Act, Congress renewed an authorization of a nursing home renovation project in Lebanon, PA, a $14 million project that still awaits appropriation.

Last year in the Committee's budget views and estimates letter, dated February 25, 2000, the Committee stated that VA has engaged in an effort through independent organizations to determine whether present VA health-care facility infrastructures are meeting needs in the most appropriate manner. The VA's effort is aimed at ascertaining whether services to veterans can be enhanced with alternative approaches. This process, called "Capital Assets Realignment for Enhanced Services" (CARES), may not achieve its intended goals for several years. In the interim, the Committee is concerned that a number of VA hospitals need additional maintenance, repair and improvements in order to address immediate dangers and hazards, promote patient and staff safety, and sustain a reasonable standard of care for the nation's veterans.

Recent reports by independent consultants and VA have revealed that dozens of VA health care buildings are at risk from seismic damage. On February 28, 2001, in Tacoma, Washington, a tremor of 6.8 magnitude seriously damaged two patient care buildings on the campus of the American Lake VA Medical Center. The damaged buildings at American Lake were among those identified as being at the highest levels of risk. This particular incident vividly demonstrates that the CARES process cannot address the immediacy of some of VA's facility maintenance problems.

A report by VA submitted to the Committee on March 14, 2000, in response to section 322 of Public Law 104–262, the Veterans' Health Care Eligibility Reform Act of 1996, identified $57 million in improvements that are needed to address women's health care needs. These projects would primarily ensure improved standards for protecting the privacy of women receiving VA care, a group that is a growing subset of the veteran population seeking care at VA facilities. The great majority of VA facilities were constructed for male patients, and need to be revamped for the care of this rising number of women patients.

Another report, commissioned by VA from the Price Waterhouse firm, entitled *"Independent Review of the Department of Veterans Affairs Office of Facilities Management,"* dated June 17, 1998, concluded that VA should be spending from 2 percent to 4 percent of its "plant replacement value" (PRV), on upkeep and replacement of its health care facilities. This PRV value in VA, according to the report, is about $35 billion; thus, using the Price Waterhouse index on maintenance and replacement, VA should be spending from $700 million to $1.4 billion each year. In fact, in fiscal year 2001, VA will spend only $170.2 million for minor construction in maintenance of its infrastructure.

Congress has authorized a number of major medical construction projects in the past three fiscal years, but these projects have received little funding through the appropriations process. Some of the more recent deferrals of major VA construction funding were partially intended to permit the CARES process to proceed in an orderly fashion and avoid unnecessary spending on VA hospital facilities that might not be needed in the future. While the Committee generally agrees with this approach, especially for larger projects that may be affected by CARES, there is a continuing need for investment in many facilities. The Committee is concerned that an unintended *de facto* moratorium on VA construction has resulted.

It should be noted that nothing in the Emergency Repair Act would prevent either the Committee or Congress from considering the merits of large-scale, major VA medical facility construction project authorizations during the two fiscal periods that the bill would cover. Should Congress decide to authorize additional projects in the future, passage of this bill would not impede its ability to do so. By its nature, the Emergency Repair Act is intended as a stopgap measure to grant the Secretary of Veterans Affairs limited authority to keep the VA health care system viable while the CARES process goes forward with its larger goals and timetables.

The Committee is convinced that this bill is justified by circumstances as well as policy. When the Committee requested that VA provide information about immediate construction needs in VA medical centers, a number of projects that would be appropriate for such consideration were immediately identified. These include:

Location	Purpose	Cost
Atlanta	Patient Wards Modernization	$12.9 million
Cleveland	Special Emphasis Renovation	$19.6 million
Miami	Energy Center Replacement	$24.9 million
San Diego	Seismic Corrections	$35.6 million
VISN 6	Special Emphasis Renovation	$17.1 million
Augusta	Spinal Cord Injury Modernization	$10.6 million
Boston	Clinical Inpatient Improvements	$25 million
Cleveland	Ambulatory Surgery Consolidation	$19.9 million
Dallas	Mental Health Improvements	$27.6 million
Palo Alto	Seismic Corrections	$26.6 million
Philadelphia	Research Renovation	$21.8 million
Pittsburgh	Ambulatory Care Addition	$28.2 million
San Francisco	Seismic Corrections	$29.4 million
Syracuse	Clinical Expansion/MRI Addition	$4.7 million
Tampa	Ambulatory Care Addition	$12 million
Washington	Outpatient Clinic Expansion	$20.8 million
West Haven	Nursing Units Renovation	$14.3 million
Los Angeles	Seismic Corrections	$26.6 million

The Committee believes that numerous meritorious projects could be identified and approved under this proposed authority. Many VA facilities need funds immediately for small projects, in

particular those that have been authorized by Congress in recent years.

While the Committee would authorize "replacement" projects in this measure, such projects should serve the same or very similar purposes as the facilities they supplant. For example, the Committee is not proposing to authorize the Secretary to replace a nursing home with a new ambulatory care center. The Committee also expects that replacement would primarily be necessitated by unsafe conditions for veterans and VA staff.

The Committee supports CARES. The CARES process, however, will not be concluded soon, and CARES has no results to support the VA budget request for fiscal year 2002. The Committee is concerned that, in the short term, CARES does not address VA's capital-maintenance needs, causes an unintended diminution of care for veterans and raises the potential for danger in the case of earthquake-prone VA facilities. In some cases, VA's lack of funds to repair and improve certain health-care structures may place veterans in considerable danger. This bill is intended to assist VA in avoiding such risks, while improving the quality of care for America's veterans.

PERFORMANCE GOALS AND OBJECTIVES

The reported bill would provide the Secretary of Veterans Affairs authority for certain medical facility construction projects consistent with the purposes and objectives defined by the bill. A board for evaluation of capital investment projects within VA but independent of the Veterans Health Administration would be required to review project proposals for mission relevance and compliance with the purposes and objectives of the bill. The Secretary would also be required to provide the Committees on Appropriations and Veterans' Affairs a report on the purpose of each project selected, the estimated cost, and the independent review of the project.

STATEMENT OF ADMINISTRATION'S VIEWS

At a hearing before the Committee on March 13, 2001, the Honorable Thomas L. Garthwaite, M.D., Under Secretary for Health, Department of Veterans Affairs, stated: "As such, the Department supports H.R. 811 to the extent that it aligns with the President's Budget. If H.R. 811 were enacted, we believe that it could be useful to VA in improving our ability to respond to immediate needs of the system's infrastructure, as well as, implement CARES. It would provide the Department with greater flexibility in selecting major construction projects and likely would result in more timely correction of deficiencies that currently impair the health care system's ability to provide care in safe and effective facilities in locations that best meet veterans' needs. The bill also would offer the incentive to medical centers to propose smaller projects targeted to more focused requirements, such as special programs, seismic corrections, and utility systems, to name just a few."

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 22, 2001.

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

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 811, the Veterans' Hospital Emergency Repair Act.

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

Sincerely,

DAN L. CRIPPEN,
Director.

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

H.R. 811, Veterans' Hospital Emergency Repair Act, As ordered reported by the House Committee on Veterans' Affairs on March 21, 2001

H.R. 811 would authorize appropriations of $250 million in 2002 and $300 million in 2003 to be used for improving, replacing, renovating, and updating medical centers in the Department of Veterans Affairs (VA). The bill would allow repair and renovation projects for making improvements in earthquake protection, fire safety, accommodations for people with disabilities and a variety of improvements to specialized programs in VA medical centers. H.R. 811 also would require reports from the General Accounting Office on the authorization process for VA construction projects and by VA for both the specific projects and the authorization process.

CBO estimates that implementing H.R. 811 would cost $11 million in 2002 and $506 million over the 2002–2006 period, assuming appropriation of the authorized amounts. Because the bill would not affect direct spending or receipts, pay-as-you-go procedures would not apply.

H.R. 811 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact is Sam Papenfuss, who can be reached at 226–2840. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

INFLATIONARY IMPACT STATEMENT

The enactment of the reported bill would have no inflationary impact.

APPLICABILITY TO LEGISLATIVE BRANCH

The reported bill would not be applicable to the legislative branch under the Congressional Accountability Act, Public Law 104–1, because the bill would only affect certain Department of Veterans Affairs programs and benefits recipients.

STATEMENT OF FEDERAL MANDATES

The reported bill would not establish a federal mandate under the Unfunded Mandates Reform Act, Public Law 104–4.

STATEMENT OF CONSTITUTIONAL AUTHORITY

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

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