

114TH CONGRESS
1ST SESSION

S. 997

To extend the authorization for the major medical facility project to replace the medical center of the Department of Veterans Affairs in Aurora, Colorado, to direct the Secretary of Veterans Affairs to enter into an agreement with the Army Corps of Engineers to manage the construction of such project, to transfer the authority to carry out future major medical facility projects of the Department from the Secretary to the Army Corps of Engineers, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 16, 2015

Mr. GARDNER introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

A BILL

To extend the authorization for the major medical facility project to replace the medical center of the Department of Veterans Affairs in Aurora, Colorado, to direct the Secretary of Veterans Affairs to enter into an agreement with the Army Corps of Engineers to manage the construction of such project, to transfer the authority to carry out future major medical facility projects of the Department from the Secretary to the Army Corps of Engineers, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Department of Vet-
3 erans Affairs Construction, Accountability, and Reform
4 Act”.

5 **SEC. 2. EXTENSION OF AUTHORIZATION OF MAJOR MED-**
6 **ICAL FACILITY PROJECT TO REPLACE DE-**
7 **PARTMENT OF VETERANS AFFAIRS MEDICAL**
8 **CENTER IN AURORA, COLORADO.**

9 The Secretary of Veterans Affairs may carry out the
10 major medical facility project to replace the medical center
11 of the Department of Veterans Affairs in Aurora, Colo-
12 rado, planned for under section 213(1) of the Veterans
13 Health Care, Capital Asset, and Business Improvement
14 Act of 2003 (Public Law 108–170; 117 Stat. 2049), in
15 an amount not to exceed a total of \$1,730,000,000.

16 **SEC. 3. PROHIBITION ON BONUSES UNTIL MAJOR MEDICAL**
17 **FACILITY PROJECT TO REPLACE DEPART-**
18 **MENT OF VETERANS AFFAIRS MEDICAL CEN-**
19 **TER IN AURORA, COLORADO, IS OPER-**
20 **ATIONAL.**

21 (a) PROHIBITION ON BONUSES DURING FISCAL
22 YEARS 2015 AND 2016.—During fiscal years 2015 and
23 2016, the Secretary of Veterans Affairs may not pay any
24 bonus.

25 (b) PROHIBITION ON BONUSES UNTIL OPERATION
26 OF MEDICAL CENTER.—If the major medical facility

1 project specified in section 2 to replace the Department
2 of Veterans Affairs Medical Center in Aurora, Colorado,
3 is not completed by September 30, 2016, the Secretary
4 may not pay any bonus until the date on which the Sec-
5 retary certifies to the Committee on Veterans' Affairs of
6 the Senate and the Committee on Veterans' Affairs of the
7 House of Representatives that such major medical facility
8 project is fully operational.

9 (c) LIMITATION ON BONUSES.—During the fiscal
10 year in which the Secretary may begin to pay a bonus
11 pursuant to subsection (b), and each fiscal year thereafter
12 through fiscal year 2024, the Secretary shall ensure that
13 the aggregate amount of bonuses paid by the Secretary
14 during each such fiscal year does not exceed
15 \$360,000,000.

16 (d) BONUS DEFINED.—In this subsection, the term
17 “bonus” means any bonus or award under chapter 45 or
18 53 of title 5, United States Code, or any other bonus or
19 award authorized under such title or title 38, United
20 States Code.

21 (e) CONFORMING REPEAL.—Section 705 of the Vet-
22 erans Access, Choice, and Accountability Act of 2014
23 (Public Law 113–146; 38 U.S.C. 703 note) is repealed.

1 **SEC. 4. MANAGEMENT OF DEPARTMENT OF VETERANS AF-**
2 **FAIRS MEDICAL CENTER IN AURORA, COLO-**
3 **RADO.**

4 (a) TRANSFER OF CONSTRUCTION AGENT RESPON-
5 SIBILITIES.—

6 (1) IN GENERAL.—Not later than 90 days after
7 the date of the enactment of this Act, the Secretary
8 of Veterans Affairs shall enter into an agreement
9 with the Secretary of the Army, acting through the
10 Chief of Engineers, for the Army Corps of Engineers
11 to carry out, on a reimbursable basis, the design,
12 contract, construction management, and other simi-
13 lar services for the Aurora medical facility project.

14 (2) TREATMENT OF AGREEMENT.—The agree-
15 ment entered into under paragraph (1) shall be sub-
16 ject to subsections (b) through (e) of section 1535
17 of title 31, United States Code.

18 (b) DUTIES.—

19 (1) IN GENERAL.—Under the agreement en-
20 tered into under subsection (a), the Army Corps of
21 Engineers may perform the project, design, contract,
22 and construction management necessary to complete
23 the work at the Aurora medical facility project that
24 is remaining as of the date of the enactment of this
25 Act.

26 (2) NEW CONTRACTS.—

1 (A) IN GENERAL.—The authority under
2 paragraph (1) shall include the authority to
3 enter into new contracts in accordance with the
4 Federal Acquisition Regulation to fulfill con-
5 struction agent responsibilities associated with
6 the Aurora medical facility project.

7 (B) PRIME CONTRACTOR.—The Secretary
8 of the Army, acting through the Chief of Engi-
9 neers, shall determine whether entering into a
10 new contract agreement with the prime con-
11 tractor as of the date of the enactment of this
12 Act is consistent with the Federal Acquisition
13 Regulation and in the best interests of the Fed-
14 eral Government.

15 (3) INFORMATION REQUIRED.—In accordance
16 with subsection (d)(1), the Secretary of Veterans Af-
17 fairs shall provide the Army Corps of Engineers with
18 the information needed to ensure that the Army
19 Corps of Engineers understands the requirements
20 for the successful operation of the Aurora medical
21 facility project.

22 (c) PLANS AND REPORTS.—

23 (1) COMPLETION PLANS.—Not later than 60
24 days after entering into the agreement under sub-
25 section (a), the Secretary of Veterans Affairs, based

1 upon the advice of the Army Corps of Engineers
2 provided under such agreement, shall submit to the
3 Committee on Veterans' Affairs of the Senate and
4 the Committee on Veterans' Affairs of the House of
5 Representatives detailed plans, including estimated
6 costs, to complete construction of the Aurora med-
7 ical facility project.

8 (2) PROGRESS REPORTS.—Not later than 180
9 days after entering into the agreement under sub-
10 section (a), and each 180-day period thereafter until
11 the date on which the Aurora medical facility project
12 is completed, the Secretary of Veterans Affairs,
13 based on the advice of the Army Corps of Engineers
14 provided under the agreement entered into under
15 subsection (a), shall submit to the Committees on
16 Veterans' Affairs of the House of Representatives
17 and Senate a report detailing the progress on the
18 Aurora medical facility project.

19 (d) COOPERATION.—

20 (1) INFORMATION.—The Secretary of Veterans
21 Affairs shall provide the Army Corps of Engineers
22 with any documents or information that the Army
23 Corps of Engineers determines necessary to carry
24 out subsections (a) and (b).

25 (2) ASSISTANCE.—

1 (A) IN GENERAL.—Upon request by the
 2 Army Corps of Engineers, the Secretary of Vet-
 3 erans Affairs shall provide to the Army Corps
 4 of Engineers any assistance that the Army
 5 Corps of Engineers determines necessary to
 6 carry out subsections (a) and (b).

7 (B) NO COST.—Any assistance provided
 8 under subparagraph (A) shall be at no cost to
 9 the Army Corps of Engineers.

10 (e) AURORA MEDICAL FACILITY PROJECT DE-
 11 FINED.—In this section, the term “Aurora medical facility
 12 project” means the major medical facility project specified
 13 in section 2 to replace the medical center of the Depart-
 14 ment of Veterans Affairs in Aurora, Colorado.

15 **SEC. 5. PROHIBITION ON SECRETARY OF VETERANS AF-**
 16 **FAIRS CARRYING OUT MAJOR MEDICAL FA-**
 17 **CILITY PROJECTS.**

18 (a) ARMY CORPS OF ENGINEERS.—Subchapter I of
 19 chapter 81 of title 38, United States Code, is amended
 20 by inserting after section 8103 the following new section:

21 **“§ 8103A. Authority of Army Corps of Engineers to**
 22 **carry out major medical facility projects**

23 **“(a) PROHIBITION.—Notwithstanding any other pro-**
 24 **vision of law, the Secretary may not carry out any major**
 25 **medical facility project.**

1 “(b) ARMY CORPS OF ENGINEERS.—Notwith-
2 standing any other provision of law, the Secretary of the
3 Army, acting through the Chief of Engineers, shall carry
4 out all major medical facility projects for the Department.

5 “(c) AGREEMENTS.—(1) The Chief of Engineers
6 shall enter into an agreement with the Secretary of Vet-
7 erans Affairs to carry out, on a reimbursable basis, design,
8 contract, construction management, and similar services
9 for major medical facility projects pursuant to subsection
10 (b).

11 “(2) Each agreement entered into under paragraph
12 (1) shall be subject to subsections (b) through (e) of sec-
13 tion 1535 of title 31.

14 “(d) DUTIES.—(1) Under an agreement entered into
15 under subsection (c), the Army Corps of Engineers may
16 perform the project, design, contract, and construction
17 management necessary to complete the major medical fa-
18 cility project covered by the agreement, including entering
19 into new contracts in accordance with the Federal Acquisi-
20 tion Regulation to fulfill construction agent responsibil-
21 ities associated with such project.

22 “(2) The Secretary shall provide the Army Corps of
23 Engineers with any documents or information needed for
24 the Army Corps of Engineers to carry out major medical
25 facility projects pursuant to subsection (b).

1 “(3) Upon request by the Army Corps of Engineers,
 2 the Secretary shall provide to the Army Corps of Engi-
 3 neers, at no cost to the Army Corps of Engineers, any
 4 assistance that the Army Corps of Engineers determines
 5 necessary to carry out major medical facility projects pur-
 6 suant to subsection (b).

7 “(e) MAJOR MEDICAL FACILITY PROJECT DE-
 8 FINED.—In this section, the term ‘major medical facility
 9 project’ has the meaning given that term in section
 10 8104(a)(3)(A) of this title.

11 “(f) APPLICABILITY.—This section shall apply with
 12 respect to any major medical facility project that begins
 13 after the date of the enactment of this section.”.

14 (b) CLERICAL AMENDMENT.—The table of sections
 15 at the beginning of such chapter is amended by inserting
 16 after the item relating to section 8103 the following new
 17 item:

“8103A. Authority of Army Corps of Engineers to carry out major medical
 facility projects.”.

18 (c) CONFORMING AMENDMENTS.—Title 38, United
 19 States Code, is further amended—

20 (1) in section 312A(c)—

21 (A) in paragraph (1), by striking “The Di-
 22 rector of” and inserting “Except as provided by
 23 section 8103A of this title, the Director of”;
 24 and

1 (B) in paragraph (2), by striking “In car-
2 rying out” and inserting “Except as provided
3 by section 8103A of this title, in carrying out”;

4 (2) in section 8103(a), by striking “section
5 8104” and inserting “sections 8103A and 8104”;

6 (3) in section 8104, by adding at the end the
7 following new subsection:

8 “(i) The Secretary shall carry out this section in ac-
9 cordance with section 8103A of this title, including with
10 respect to obligating or expending funds described in this
11 section.”; and

12 (4) in section 8106—

13 (A) in subsection (a), by striking “The
14 Secretary may” and inserting “Subject to sec-
15 tion 8103A of this title, the Secretary may”;

16 (B) in subsection (b)(1), by striking “The
17 Secretary may” and inserting “Subject to sec-
18 tion 8103A of this title, the Secretary may”;
19 and

20 (C) in subsection (c), by inserting “(except
21 under section 8103A)” after “this subchapter”.

1 **SEC. 6. COMPTROLLER GENERAL REPORT ON MANAGE-**
2 **MENT OF DEPARTMENT OF VETERANS AF-**
3 **FAIRS MEDICAL CENTER IN AURORA, COLO-**
4 **RADO.**

5 (a) REVIEW.—

6 (1) IN GENERAL.—The Comptroller General of
7 the United States shall review the management by
8 the Secretary of Veterans Affairs of the Aurora
9 medical facility project, including with respect to the
10 thoroughness and accuracy of the investigation into
11 mismanagement conducted by the administrative in-
12 vestigation board established by the Secretary.

13 (2) ELEMENTS.—The review required under
14 paragraph (1) shall include a review of the following:

15 (A) Any potential misconduct or criminal
16 activity committed by employees of the Depart-
17 ment of Veterans Affairs that may have con-
18 tributed to the significant cost overruns of the
19 Aurora medical facility project.

20 (B) When senior officials of the Depart-
21 ment knew, or should have known, that such
22 project was likely to incur significant cost over-
23 runs.

24 (C) The justification of the Secretary for
25 withholding from Congress any information re-

1 lating to the significant cost overruns of such
2 project.

3 (b) REPORT.—Not later than 180 days after the date
4 on which the Secretary of Veterans Affairs concludes the
5 investigation conducted by the administrative investigation
6 board described in subsection (a), the Comptroller General
7 of the United States shall submit to the Committee on
8 Veterans’ Affairs of the Senate and the Committee on Vet-
9 erans’ Affairs of the House of Representatives a report
10 containing the results of the review required under such
11 subsection.

12 (c) AURORA MEDICAL FACILITY PROJECT DE-
13 FINED.—In this section, the term “Aurora medical facility
14 project” means the major medical facility project specified
15 in section 2 to replace the medical center of the Depart-
16 ment of Veterans Affairs in Aurora, Colorado.

17 **SEC. 7. NOTIFICATION TO CONGRESS FOR USE OF FUNDS**
18 **FOR MAJOR MEDICAL FACILITY PROJECTS**
19 **THAT EXCEED AUTHORIZED AMOUNTS.**

20 Section 8104(c) of title 38, United States Code, is
21 amended by striking “30 days” and inserting “120 days”.

