

117TH CONGRESS
2D SESSION

S. 5059

To improve the pilot program on acceptance by the Department of Veterans Affairs of donated facilities and related improvements to account for issues relating to inflation, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 29, 2022

Mr. LANKFORD (for himself, Mr. INHOFE, and Mrs. FISCHER) introduced the following bill; which was read twice, considered, read the third time, and passed

A BILL

To improve the pilot program on acceptance by the Department of Veterans Affairs of donated facilities and related improvements to account for issues relating to inflation, 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 “CHIP-IN Improve-
5 ment Act of 2022”.

1 **SEC. 2. IMPROVING PILOT PROGRAM ON ACCEPTANCE BY**
 2 **THE DEPARTMENT OF VETERANS AFFAIRS**
 3 **OF DONATED FACILITIES AND RELATED IM-**
 4 **PROVEMENTS.**

5 (a) IN GENERAL.—Section 2 of the Communities
 6 Helping Invest through Property and Improvements Need-
 7 ed for Veterans Act of 2016 (Public Law 114–294; 38
 8 U.S.C. 8103 note) is amended—

9 (1) in subsection (b)(1)(A), by inserting “or for
 10 which funds are available from the Construction,
 11 Minor Projects, or Construction, Major Projects ap-
 12 propriations accounts”;

13 (2) in subsection (e)(1)—

14 (A) in subparagraph (A)—

15 (i) by striking “The Secretary” and
 16 inserting “Except as otherwise provided in
 17 this paragraph, the Secretary”; and

18 (ii) by inserting “or funds already
 19 generally available in the Construction,
 20 Minor Projects, or Construction, Major
 21 Projects appropriations accounts” after
 22 “that are in addition to the funds appro-
 23 priated for the facility”;

24 (B) in subparagraph (B), by striking “sub-
 25 paragraph (A)” and inserting “this paragraph”;

1 (C) by redesignating subparagraph (B) as
 2 subparagraph (F); and

3 (D) by inserting after subparagraph (A)
 4 the following new subparagraphs:

5 “(B) UNOBLIGATED AMOUNTS.—The Sec-
 6 retary may provide additional funds to help an
 7 entity described in subsection (a)(2) finance,
 8 design, or construct a facility in connection with
 9 real property and improvements to be donated
 10 under the pilot program and proposed to be ac-
 11 cepted by the Secretary under subsection
 12 (b)(1)(B) if—

13 “(i) the Secretary determines that
 14 doing so is in the best interest of the De-
 15 partment and consistent with the mission
 16 of the Department; and

17 “(ii) funding provided under this sub-
 18 paragraph—

19 “(I) is in addition to amounts
 20 that have been appropriated for the
 21 facility before the date on which the
 22 Secretary and the entity enter into a
 23 formal agreement under subsection (c)
 24 for the construction and donation of

1 the real property and improvements;
 2 and

3 “(II) is derived only from
 4 amounts that—

5 “(aa) are unobligated bal-
 6 ances available in the Construc-
 7 tion, Minor Projects, or Con-
 8 struction, Major Projects appro-
 9 priations accounts of the Depart-
 10 ment that—

11 “(AA) are not associ-
 12 ated with a specific project;
 13 or

14 “(BB) are amounts
 15 that are associated with a
 16 specific project, but are un-
 17 obligated because they are
 18 the result of bid savings;
 19 and

20 “(bb) were appropriated to
 21 such an account before the date
 22 described in subclause (I).

23 “(C) ESCALATION CLAUSES.—

24 “(i) IN GENERAL.—The Secretary
 25 may include an escalation clause in a for-

mal agreement under subsection (c) that authorizes an escalation of not more than an annual amount based on a rate established in the formal agreement and mutually agreed upon by the Secretary and an entity to account for inflation for an area if the Secretary determines, after consultation with the head of an appropriate Federal entity that is not part of the Department, that such escalation is necessary and in the best interest of the Department.

“(ii) USE OF EXISTING AMOUNTS.—
The Secretary may obligate funds pursuant to clause (i) in connection with a formal agreement under subsection (c) using amounts that—

“(I) are unobligated balances available in the Construction, Minor Projects, or Construction, Major Projects appropriations accounts of the Department that—

“(aa) are not associated with a specific project; or

“(bb) are amounts that are associated with a specific project,

1 but are unobligated because they
 2 are the result of bid savings; and
 3 “(II) were appropriated to such
 4 an account before the date on which
 5 the Secretary and the entity entered
 6 into the formal agreement.

7 “(D) AVAILABILITY.—Unobligated
 8 amounts shall be available pursuant to subpara-
 9 graphs (B) and (C) only to the extent and in
 10 such amounts as provided in advance in appro-
 11 priations Acts subsequent to date of the enact-
 12 ment of the CHIP-IN Improvement Act of
 13 2022, subject to subparagraph (E).

14 “(E) LIMITATION.—Unobligated amounts
 15 made available pursuant to subparagraphs (B)
 16 and (C) may not exceed 40 percent of the
 17 amount appropriated for the facility before the
 18 date on which the Secretary and the entity en-
 19 tered into a formal agreement under subsection
 20 (c).”; and
 21 (3) in subsection (j)—

22 (A) by striking “RULE” and inserting
 23 “RULES”;

24 (B) by striking “Nothing in” and inserting
 25 the following:

1 “(1) ENTERING ARRANGEMENTS AND AGREE-
2 MENTS.—Nothing in”; and

3 (C) by adding at the end the following new
4 paragraph:

5 “(2) TREATMENT OF ASSISTANCE.—Nothing
6 provided under this section shall be treated as Fed-
7 eral financial assistance as defined in section 200.40
8 of title 2, Code of Federal Regulations, as in effect
9 on February 21, 2021.”.

10 (b) AMENDMENTS TO EXISTING AGREEMENTS.—
11 Each agreement entered into under section (2)(c) of such
12 Act before the date of the enactment of this Act that was
13 in effect on the date of the enactment of this Act may
14 be amended to incorporate terms authorized by subpara-
15 graphs (B) and (C) of section 2(e)(1) of such Act, as
16 added by subsection (a)(2)(D) of this section.

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