CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

November 13, 2017

H.R. 4243
VA Asset and Infrastructure Review Act of 2017

As ordered reported by the House Committee on Veterans' Affairs on November 8, 2017

SUMMARY

H.R. 4243 would directly appropriate $2.1 billion for the Veterans Choice Program (VCP) and $500 million for infrastructure improvements at the Department of Veterans Affairs (VA). The bill also would expand VA's authority to enter into leases for medical facilities and enhanced-use leases (EULs). In total, CBO estimates that enacting H.R. 4243 would increase direct spending by $3.8 billion over the 2018-2027 period.

The bill also would increase the amount VA can spend on awards and bonuses for employees; establish procedures for realigning, modernizing, or closing medical facilities; and require training of construction personnel. In total, CBO estimates that implementing H.R. 4243 would cost $720 million over the 2018-2022 period, assuming appropriation of the necessary amounts.

Because enacting H.R. 4243 would affect direct spending, pay-as-you-go procedures apply. Enacting the bill would not affect revenues.

CBO estimates that enacting H.R. 4243 would increase direct spending by more than $2.5 billion and would increase on-budget deficits by more than $5 billion in at least one of the four consecutive 10-year periods beginning in 2028.

H.R. 4243 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary effects of H.R. 4243 is shown in Table 1. The costs of this legislation fall within budget function 700 (veterans benefits and services).

TABLE 1. ESTIMATED BUDGETARY EFFECTS OF H.R. 4243, THE VA ASSET AND INFRASTRUCTURE REVIEW ACT OF 2017

	By Fiscal Year, in Millions of Dollars											
	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2018-2022	2018-2027
INCREASES IN DIRECT SPENDING												
Estimated Budget Authority	2,600	90	90	230	230	230	230	230	230	230	3,240	4,390
Estimated Outlays	2,220	340	70	76	102	159	192	213	227	227	2,808	3,826
INCREASES IN SPENDING SUBJECT TO APPROPRIATION												
Estimated Authorization Level	131	170	217	260	266	n.a.	n.a.	n.a.	n.a.	n.a.	1,044	n.a.
Estimated Outlays	20	75	158	220	246	n.a.	n.a.	n.a.	n.a.	n.a.	719	n.a.

Note: Components may not sum to totals because of rounding; n.a. = not applicable.

BASIS OF ESTIMATE

For this estimate, CBO assumes that the bill will be enacted near the beginning of calendar year 2018 and that the estimated amounts will be appropriated each year. Estimated outlays are based on historical spending patterns for the affected programs.

Direct Spending

H.R. 4243 would directly appropriate funds for VCP and construction projects at the department. In addition, the bill would increase VA's ability to lease medical facilities without legislative authorization. On that basis, CBO estimates this bill would increase direct spending by $3.8 billion over the 2018-2027 period (see Table 2).

Direct Appropriations. Section 302 would appropriate $2.1 billion for VCP and $0.5 billion for minor construction and nonrecurring maintenance. VCP pays for certain veterans to receive health care from participating providers in the private sector. At the beginning of fiscal year 2018, VCP had about $2 billion in available funds, which CBO estimates will be completely committed before the first half of 2018 is over. Under current law, the program will terminate once its funding is exhausted. CBO expects that enacting this provision would extend the life of VCP through the remainder of 2018 and would provide additional support for minor construction projects. On that basis, CBO estimates that section 302 would increase direct spending by $2.2 billion in 2018 and $2.6 billion over the 2018-2022 period.

TABLE 2. ESTIMATE OF THE EFFECTS ON DIRECT SPENDING OF H.R. 4243, THE ASSET AND INFRASTRUCTURE REVIEW ACT OF 2017

	By Fiscal Year, in Millions of Dollars											
	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2018-2022	2018-2027
INCREASES IN DIRECT SPENDING												
Direct Appropriations												
Budget Authority	2,600	0	0	0	0	0	0	0	0	0	2,600	2,600
Estimated Outlays	2,220	325	40	10	0	0	0	0	0	0	2,595	2,595
Modify Threshold for Major Medical Facilities												
Estimated Budget Authority	0	0	0	100	100	100	100	100	100	100	200	700
Estimated Outlays	0	0	0	4	19	49	69	84	94	94	23	413
Shared Medical Facilities												
Estimated Budget Authority	0	0	0	40	40	40	40	40	40	40	80	280
Estimated Outlays	0	0	0	2	8	20	28	34	38	38	10	168
Enhanced-Use Leases												
Estimated Budget Authority	0	90	90	90	90	90	90	90	90	90	360	810
Estimated Outlays	0	15	30	60	75	90	95	95	95	95	180	650
Total Changes												
Estimated Budget Authority	2,600	90	90	230	230	230	230	230	230	230	3,240	4,390
Estimated Outlays	2,220	340	70	76	102	159	192	213	227	227	2,808	3,826

Expanded Authority to Lease Medical Facilities. Sections 201 and 204 would expand the authority for VA to enter into leases for medical facilities. (Those provisions also would expand the authority to construct medical facilities, discussed below under the heading Spending Subject to Appropriation.) In total, CBO estimates enacting those sections would increase direct spending by $581 million over the 2018-2027 period.

VA classifies its contracts for acquiring such facilities as operating leases and thus records its obligations for lease payments on an annual basis over the term of each lease. However, CBO has reviewed a number of those contracts and has concluded that they are akin to government purchases of facilities built specifically for VA's use—but instead of being financed by the Treasury, they rely on third-party financing (that is, funds raised by a nonfederal entity), which is generally more expensive.[1] That conclusion is based on those leases having many of the following key features:

- The facilities are designed and constructed to the unique specifications of the government;

1. For more information on the budgetary treatment of third-party financing, see Congressional Budget Office, Third-Party Financing of Federal Projects (June 2005), www.cbo.gov/publication/16554.

- The facilities are constructed at the request of the federal government;

- The leases on the newly constructed facilities are long term—usually 20 years;

- Payments from the federal government are the only or primary source of income for the facilities;

- The term of the contractual agreements coincides with the term of the private partner's financing instrument for developing and constructing the facility (that is, a facility financed with a 20-year bond will have a 20-year lease term);

- The federal government commits to make fixed annual payments that are sufficient to service the debt incurred to develop and construct the facility, regardless of whether the agency continues to occupy the facility during the guaranteed term of the lease; and

- The fixed payments over the life of the lease are sufficient to retire the debt for the facility.[2]

Thus, although those transactions are structured as leases, they are essentially government purchases. Under the normal procedures governing the budgetary treatment of the purchase of capital assets, budget authority should be available and obligations should be recorded at the time the acquisitions are initiated and amounts recorded should equal the full development and construction costs of the medical facilities. Instead, VA records a small fraction of those costs as obligations when it awards the contracts for such transactions.

To the extent that the full costs of developing and constructing the facilities exceeds the relatively small amount that VA would initially record as obligations against its appropriation, CBO treats the legislative authorization for those transactions as contract authority—a type of budget authority that allows an agency to enter into a contract and incur an obligation before receiving an appropriation for those activities. Because the contract authority would be provided in an authorizing bill, rather than in an appropriation act, the resulting spending is categorized as direct spending (as distinguished from discretionary spending, which results from appropriation acts).

In addition, at the time the contracts are signed, VA typically obligates some amounts from available appropriations. Those costs are considered discretionary and are discussed below under the heading Spending Subject to Appropriation.

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2. See the statement of Robert A. Sunshine, Deputy Director, Congressional Budget Office, The Budgetary Treatment of Medical Facility Leases by the Department of Veterans Affairs, before the House Committee on Veterans' Affairs, (June 27, 2013), www.cbo.gov/publication/44368.

Modify Threshold for Major Medical Facilities. Section 201 would allow VA to enter into leases without legislative authorization for medical facilities with annual lease payments up to $1.5 million. Under current law, VA is required to receive legislative authorization to lease medical facilities with annual rent payments in excess of $1 million.

After reviewing VA's 2018 budget request for leases of medical facilities, CBO estimates that enacting this provision would allow VA to enter into six additional leases, on average, each year. In total, the annual rent payments for those leases would be about $7 million. CBO expects that the initial contracts for those facilities would be entered into starting in 2021 and that contracts of a similar magnitude would occur each year thereafter. CBO calculated the present value of each lease over the entire term of the lease agreement.[3] We estimate that enacting this provision would increase direct spending by $413 million over the 2021-2027 period.

Shared Medical Facilities. Section 204 would allow VA to enter into sharing agreements with other federal agencies to lease medical facilities. Under this section VA's portion of the annual rent payments for leased medical facilities could be lowered by enough that some leases would no longer require legislative authorization. Based on an analysis of information from VA, CBO estimates that, on average, this section would authorize the construction of one medical facility each year at an average annual rent payment of $3 million. CBO expects that VA would enter into the first such contract in 2021 and contracts of similar magnitude each year thereafter. On the basis of the present value for each lease over the entire term of the lease agreement, CBO estimates that enacting this section would increase direct spending by $168 million over the 2021-2027 period.

Enhanced-Use Leases. Section 205 would expand VA's authority to enter into enhanced-use leases.

Under EULs, federal agencies can lease out underused property to a nonfederal entity in exchange for cash or in-kind compensation. Through some of those leases, agencies have obtained third-party financing for the acquisition, construction, rehabilitation, operation, and maintenance of real property used by the agencies. A range of agreements associated with the leases establish government control over the projects, protect the government's interests, and ensure that agencies will receive guaranteed access to whatever facilities are being developed. The contracts also assure the nonfederal partners that they will be able to recover their capital costs for the facilities over time through payments from the federal government.

CBO has concluded that such facilities are built for governmental purposes and are effectively under control of the federal government. Thus, the costs of developing and

3. The costs for the 20-year leases are calculated by discounting the expected annual rent payments using the rate on Treasury securities of comparable maturities.

constructing facilities in that manner are governmental transactions that should be recorded in the budget when they occur, regardless of whether they are financed directly by the U.S. Treasury or indirectly by a third party. Budget authority in the amount of the cost of the facility should be recorded when the lease is signed and outlays should be recorded over the construction phase. Because agencies instead record obligations to pay for the facilities one year at a time, rather than up front, CBO treats the authorization for those transactions as contract authority—a form of direct spending that allows agencies to incur obligations in advance of appropriations.

VA's authority for enhanced-use leases expired in 2011. It was subsequently authorized to enter EULs only for the purpose of obtaining supportive housing for homeless veterans. Section 205 would restore VA's authority to enter enhanced-use leases for any purpose at any of the department's facilities if the department determines that the lease would enhance the use of the property.

Before VA's EUL authority expired, the department used that authority to acquire numerous facilities such as administrative buildings, utility plants, data centers, hospitals, and parking garages. On the basis of the number of and the costs to acquire those facilities, CBO expects that under section 205, VA would acquire one or two facilities each year beginning in 2019 at an average cost of $60 million each. In total, enacting section 205 would increase direct spending by $650 million over the 2018-2027 period, CBO estimates.

Realignment, Modernization and Closure of VA Medical Facilities. As part of a program of modernizing and realigning medical facilities, section 104 would allow VA to lease such facilities without legislative authorization. Such actions would occur after 2027 and therefore CBO does not include those budgetary effects in the tables for this estimate. However, CBO estimates that enacting section 104 would increase direct spending by more than $7.5 billion in the first 10 years after 2027.

Spending Subject to Appropriation

CBO estimates that implementing H.R. 4243 would increase the amounts VA pays for awards and bonuses, leases of medical facilities, and construction projects by a total of $720 million over the 2018-2022 period, subject to appropriation of the necessary amounts (see Table 3).

Limitation on Bonuses. Section 301 would increase the amount that VA is authorized to pay its employees for awards and bonuses. Under current law, the amount VA may spend for such payments is capped at $230 million in fiscal year 2018, $225 million a year in 2019 through 2021, and $360 million in 2022. By removing from the list of capped payments those amounts provided for recruitment, relocation, and retention incentives (3R incentives), this provision would increase the amount VA can spend for those incentives as well as make room under the caps to increase the amounts paid for all other awards and bonuses.

TABLE 3. ESTIMATE OF THE EFFECTS ON SPENDING SUBJECT TO APPROPRIATIONS OF H.R. 4243, THE ASSET AND INFRASTRUCTURE REVIEW ACT OF 2017

	By Fiscal Year, in Millions of Dollars					
	2018	2019	2020	2021	2022	2018-2022
INCREASES IN SPENDING SUBJECT TO APPROPRIATION						
Limitation on Bonuses						
Estimated Authorization Level	15	52	98	114	120	399
Estimated Outlays	15	52	98	114	120	399
Shared Medical Facilities						
Estimated Authorization Level	100	100	100	107	107	514
Estimated Outlays	4	19	49	75	91	238
Modify Threshold for Major Medical Facilities						
Estimated Authorization Level	16	16	16	36	36	120
Estimated Outlays	1	3	8	28	32	72
Procedures for Recommendations						
Estimated Authorization Level	*	1	3	3	3	10
Estimated Outlays	*	1	3	3	3	10
Training Construction Personnel	0	1	*	*	*	1
Estimated Authorization Level	0	*	*	*	*	1
Estimated Outlays						
Total Changes						
Estimated Authorization Level	131	170	217	260	266	1,044
Estimated Outlays	20	75	158	220	246	720

Note: Components may not sum to totals because of rounding; * = less than $500,000.

In 2013, before the cap on such payments was first imposed, VA spent $81 million for 3R incentives. CBO expects that under this provision, VA would gradually return to that level of spending, adjusted to account for the increased number of VA employees and past and future cost-of-living increases. At the same time, we expect that VA also would take advantage of the extra room available under the caps to gradually increase the amount it spends on other awards and bonuses. On that basis, CBO estimates that implementing section 301 would cost $399 million over the 2018-2022 period.

Expanded Authority to Construct and Lease Medical Facilities. Sections 201 and 204 would expand the authority of VA to construct and lease medical facilities. In total, CBO estimates that implementing those provisions would cost $310 million over the 2018-2022 period for additional construction and lease projects.

Shared Medical Facilities. Section 204 would allow VA to enter into sharing agreements with other federal departments to construct medical facilities. Implementing this section could reduce VA's share of the cost of some construction projects, such that some such projects would no longer require legislative authorization. On the basis of information from VA, CBO estimates the total cost for such major construction projects would average about $100 million each year. On that basis, CBO estimates costs of $225 million over the 2018-2022 period for additional construction projects.

Furthermore, as discussed above under the heading "Direct Spending," this section also would expand VA's authority to enter into leases for medical facilities. CBO estimates that VA would enter into one additional lease each year with a total annual rent payment of $3 million. For those leases, we expect that VA would record obligations of $7 million each year as it enters those contracts, from available appropriations. On that basis, we estimate costs of $13 million over the 2021-2022 period for additional leases.

In total, CBO estimates implementing section 204 would cost $238 million over the 2018-2022 period.

Modify Threshold for Major Medical Facilities. Section 201 would allow VA to construct medical facilities with total costs of up to $20 million without legislative authorization. Under current law, VA is required to receive legislative authorization to construct medical facilities with total expenses above $10 million.

Based on an analysis of information on planned construction projects in VA's 2018 budget submission, CBO estimates that implementing this section would authorize one additional construction project each year with an average cost of $16 million. On that basis, CBO estimates costs of $36 million over the 2018-2022 period.

In addition, as discussed above under Direct Spending, this section would also expand VA's authority to enter into leases for medical facilities. CBO estimates that VA would enter into 6 additional leases each year with a total annual rent payment of $7 million. For those leases, we expect that VA would record obligations of $20 million each year as it enters those contracts, from available appropriations. On that basis, we estimate costs of $36 million over the 2021-2022 period for additional leases.

In total, CBO estimates implementing section 201 would cost $72 million over the 2018-2022 period for additional leases.

Procedures for Recommendations. By February 1, 2021, section 103 would require VA, in consultation with Veterans Service Organizations, to publish the criteria for assessing and making recommendations for modernizing, realigning and closing VA medical facilities. In making recommendations VA must hold public field hearings with local stakeholders. The final criteria must be published by May 1, 2021, after receiving comments from the public. In addition, VA would be required to conduct capacity and commercial market assessments. On the basis of costs for nationwide assessments, CBO estimates that an equivalent of 20 full time employees (with average annual compensation of $150,000) would be necessary. Thus, CBO estimates implementing this provision would cost $10 million over the 2018-2022 period.

Training for Construction Personnel. Section 203 would require VA to offer job training (in person, online or by another federal agency) for all construction employees. CBO estimates that implementing this section would cost $1 million to develop the training materials over the 2018-2022 period.

PAY-AS-YOU-GO CONSIDERATIONS

The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays that are subject to those pay-as-you-go procedures are shown in the following table.

CBO Estimate of Pay-As-You-Go Effects for H.R. 4243, as ordered reported by the House Committee on Veterans' Affairs on November 8, 2017

	By Fiscal Year, in Millions of Dollars											
	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2018-2022	2018-2027
	NET INCREASE IN THE ON-BUDGET DEFICIT											
Statutory Pay-As-You-Go Impact	2,220	340	70	76	102	159	192	213	227	227	2,808	3,826

INCREASE IN LONG-TERM DIRECT SPENDING AND DEFICITS

CBO estimates that enacting H.R. 4243 would increase direct spending by more than $2.5 billion and would increase on-budget deficits by more than $5 billion in at least one of the four consecutive 10-year periods beginning in 2028.

MANDATES

H.R. 4243 contains no intergovernmental or private-sector mandates as defined in UMRA.

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