SEC. ___. EXTENSION AND CLARIFICATION OF AUTHORITY FOR THE JOINT DEPARTMENT OF DEFENSE-DEPARTMENT OF VETERANS AFFAIRS MEDICAL FACILITY DEMONSTRATION PROJECT.

Title XVII of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84; 123 Stat. 2567) is amended—

(1) in section 1701(a)—

(A) by striking "Subject to subsection (b), the" and inserting "The";

(B) by striking subsection (b); and

(C) by redesignating subsections (c) through (f) as subsections (b) through (e), respectively;

(2) in section 1702(a)(1), by striking "hereafter in this title" and inserting "hereafter in this section";

(3) in subsections (a) and (c) of section 1703, by striking "the facility" and inserting "the James A. Lovell Federal Health Care Center";

(4) in section 1704—

(A) in subsections (a)(3), (a)(4)(A), and (b)(1), by striking "the facility" and inserting "the James A. Lovell Federal Health Care Center"; and

(B) in subsection (e), as amended by section 722 of the Carl Levin and Howard P. ''Buck'' McKeon National Defense Authorization Act for Fiscal Year 2015 (Public Law 113-291; 128 Stat. 3417), section 723 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114-92; 129 Stat. 869), section 741 of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114-328; 129 Stat. 2237), and section 719 of the

National Defense Authorization Act for Fiscal Year 2018 (Public Law 115-91), by striking "September 30, 2019" and inserting "September 30, 2020; and

(5) in section 1705—

(A) in subsection (a), by striking "the facility" and inserting "the James A. Lovell Federal Health Care Center (hereafter in this section referred to as the 'JALFHCC')";

(B) in the matter preceding paragraph (1) of subsection (b), by striking "the facility" and inserting "the JALFHCC"; and

(C) in subsection (c)—

(i) by striking "the facility" each place it appears and inserting "the JALFHCC"; and

(ii) by adding at the end the following new paragraph:

"(4) To permit the JALFHCC to enter into personal services contracts to carry out health care responsibilities in the JALFHCC to the same extent and subject to the same conditions and limitations as apply under section 1091 of title 10, United States Code, to the Secretary of Defense in relation to health care responsibilities in medical treatment facilities of the Department of Defense.".

Section-by-Section Analysis

This proposal would amend five sections of title XVII the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2010 (Public Law 111-84; 123 Stat. 2567), which authorized the Department of Defense (DoD)-Department of Veterans Affairs (VA) Medical Facility Demonstration Project in North Chicago and Great Lakes, Illinois. The purpose of this proposal is to authorize the continuation of this demonstration project, with some appropriate clarifications of authority. A comprehensive assessment of the demonstration project concluded that continued joint operation of a medical center in the North Chicago-Great Lakes

area serves the needs of both departments and continues to provide a valuable demonstration of VA-DoD medical system collaboration.

In section 1701, this proposal would amend the demonstration project authority to permit revisions to the original executive agreement that are appropriate for continuing joint VA-DoD operation of the James A. Lovell Federal Health Care Center.

In section 1702, this proposal would make a conforming amendment that clarifies the meaning of the word “facility” in section 1702.

In section 1703, this proposal would replace two instances of the use of the word “facility” with “James A. Lovell Federal Health Care Center”.

In section 1704, this proposal would amend the term of the life of the Joint Medical Facility Demonstration Fund, from September 30, 2019, to September 30, 2020. Continued use of the joint fund is essential to the program. The proposal would also replace three instances of the use of the word “facility” with “James A. Lovell Federal Health Care Center”.

In section 1705, this proposal would replace five instances of the use of the word “facility” with “James A. Lovell Federal Health Care Center” or “JALFHCC” to mirror language in section 1413 of the FY 2015 NDAA. This amendment clarifies applicability of the term “facility” in this section. In the FY 2010 NDAA, the word “facility” is defined in section 1702(a)(1) as limited to DoD assets. Access to care under section 1705 should be for the entire joint facility. Another proposed amendment to section 1705 would allow the JALFHCC to enter into personal services contracts (under 10 U.S.C. 1091) with health care providers to the same extent that DoD medical facilities have been doing successfully for many years.

Budget Implications: The resources reflected in the table below are funded within the FY 2018 President's Budget. The proposal to modify the language in the eligibility section has no budgetary impact as this change would only reflect current practice in waiving TRICARE cost shares for DoD beneficiaries seen in facilities of the Uniformed Services and also aligns FY 2010 NDAA language with language in other legislation. This is funded in the FY 2019 President's Budget request.

RESOURCE REQUIREMENTS ($MILLIONS)									
	FY 2019	**FY 2020**	**FY 2021**	**FY 2022**	**FY 2023**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**	**Program Element**
Defense Health Program	113.000	121.440	127.828	128.311	131.891	Defense Health Program, Operation and Maintenance	01		0807714
Defense Health Program	0.598	0.615	0.632	0.650	0.668	Defense Health Program, Operation and Maintenance	01		0807724
Total	113.00	122.055	125.460	128.961	132.559	--	--	--	--

Changes to Existing Law: This proposal would make the following changes to sections 1701, 1702, 1704, and 1705 of title XVII of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2190):

SEC. 1701. DEMONSTRATION PROJECT AUTHORITY.

(a) EXECUTIVE AGREEMENT AUTHORIZED.--~~Subject to subsection (b), the~~ The Secretary of Defense, in consultation with the Secretary of the Navy, and the Secretary of Veterans Affairs may execute a signed executive agreement pursuant to section 706 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110-417; 122 Stat. 455) for the joint use by the Department of Defense and the Department of Veterans Affairs of the following:

(1) A new Navy ambulatory care center (on which construction commenced in July 2008), parking structure, and supporting structures and facilities in North Chicago, Illinois, and Great Lakes, Illinois.

(2) Medical personal property and equipment relating to the center, structures, and facilities described in paragraph (1).

~~(b) DEADLINE FOR ENTRY INTO AGREEMENT.--The executive agreement authorized by subsection (a) shall be entered into, if at all, by not later than 180 days after the date of the enactment of this Act.~~

~~(c)~~ (b) SCOPE.--The executive agreement under subsection (a) shall--

(1) be a binding operational agreement on matters under the areas specified in section 706 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009; and

(2) contain additional terms and conditions as required by the provisions of this title.

~~(d)~~ (c) REPORTS.--

(1) NOTICE OF AGREEMENT.--Not later than seven days before executing an executive agreement under subsection (a), the Secretary of Defense and the Secretary of Veterans Affairs shall jointly submit to the appropriate committees of Congress a report setting forth a copy of the proposed executive agreement.

(2) FINAL REPORT.--Not later than 180 days after the fifth anniversary of the date of the execution of the executive agreement under subsection (a), the Secretary of Defense and the Secretary of Veterans Affairs shall jointly submit to the appropriate committees of Congress a report on the exercise of the authorities in this title at the facility (as defined in section 1702(a)(1)). The report shall include the following:

(A) A comprehensive description and assessment of the exercise of the authorities in this title.

(B) The recommendation of the Secretaries as to whether the exercise of the authorities in this title should continue.

(3) REPORT ON ADDITIONAL LOCATIONS FOR SIMILAR AGREEMENTS.--Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense and the Secretary of Veterans Affairs shall jointly submit to the appropriate committees of Congress a report setting forth such recommendations as the Secretaries jointly consider

appropriate for additional locations, if any, at which executive agreements like the executive agreement under subsection (a) would be advisable.

~~(c)~~ (d) COMPTROLLER GENERAL REVIEWS.--

(1) IN GENERAL.-- Not later than one year after the execution of an executive agreement under subsection (a), and annually thereafter, the Comptroller General shall conduct a review and assessment of the following:

(A) The progress made in implementing the agreement.

(B) The effects of the agreement on the provision of care and operation of the facility (as so defined).

(2) REPORTS.-- Not later than 90 days after the commencement of each review and assessment conducted under paragraph (1), the Comptroller General shall submit to the appropriate committees of Congress a report on such review and assessment. Each report shall set forth the following:

(A) The results of such review and assessment.

(B) Such recommendations for modifications of the executive agreement, or the authorities in this title, as the Comptroller General considers appropriate in light of the results of such review and assessment.

~~(f)~~ (e) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.--In this section, the term `appropriate committees of Congress' means--

(1) the Committees on Armed Services and Veterans' Affairs of the Senate; and

(2) the Committees on Armed Services and Veterans' Affairs of the House of Representatives.

SEC. 1702. TRANSFER OF PROPERTY.

(a) TRANSFER.—

(1) TRANSFER AUTHORIZED.--The Secretary of Defense, acting through the Administrator of General Services, may transfer, without reimbursement, to the Secretary of Veterans Affairs jurisdiction, custody, and control over the center, structures, facilities, and property and equipment covered by the executive agreement under section 1701 (~~hereafter in this title~~ hereafter in this section referred to as the ``facility'').

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SEC. 1703. TRANSFER OF CIVILIAN PERSONNEL OF THE DEPARTMENT OF DEFENSE.

(a) TRANSFER OF FUNCTIONS.—The Secretary of Defense and the Secretary of the Navy may transfer to the Secretary of Veterans Affairs functions necessary for the effective operation of ~~the facility~~ the James A. Lovell Federal Health Care Center. The Secretary of Veterans Affairs may accept any functions so transferred.

(b) TERMS.—

(1) EXECUTIVE AGREEMENT.—Any transfer of functions under subsection (a) shall be carried out as provided in the executive agreement under section 1701. The functions to be so transferred shall be identified utilizing the provisions of section 3503 of title 5, United States Code.

(2) ELEMENTS.—In providing for the transfer of functions under subsection (a), the executive agreement under section 1701 shall provide for the following:

(A) The transfer of civilian employee positions of the Department of Defense identified in the executive agreement to the Department of Veterans Affairs, and of the incumbent civilian employees in such positions, and the transition of the employees so transferred to the pay, benefits, and personnel systems that apply to employees of the Department of Veterans Affairs (to the extent that different systems apply).

(B) The transition of employees so transferred to the pay systems of the Department of Veterans Affairs in a manner which will not result in any reduction in an employee's regular rate of compensation (including basic pay, locality pay, any physician comparability allowance, and any other fixed and recurring pay supplement) at the time of transition.

(C) The continuation after transfer of the same employment status for employees so transferred who have already successfully completed or are in the process of completing a one-year probationary period under title 5, United States Code, notwithstanding the provisions of section 7403(b)(1) of title 38, United States Code.

(D) The extension of collective bargaining rights under title 5, United States Code, to employees so transferred in positions listed in subsection 7421(b) of title 38, United States Code, notwithstanding the provisions of section 7422 of title 38, United States Code, for a two-year period beginning on the effective date of the executive agreement.

(E) At the end of the two-year period beginning on the effective date of the executive agreement, for the following actions by the Secretary of Veterans Affairs with respect to the extension of collective bargaining rights under subparagraph (D):

(i) Consideration of the impact of the extension of such rights.

(ii) Consultation with exclusive employee representatives of the transferred employees about such impact.

(iii) Determination, after consultation with the Secretary of Defense and the Secretary of the Navy, whether the extension of such rights should be terminated, modified, or kept in effect.

(iv) Submittal to Congress of a notice regarding the determination made under clause (iii).

(F) The recognition after transfer of each transferred physician's and dentist's total number of years of service as a physician or dentist in the Department of Defense for purposes of calculating such employee's rate of base pay, notwithstanding the provisions of section 7431(b)(3) of title 38, United States Code.

(G) The preservation of the seniority of the employees so transferred for all pay purposes.

(c) RETENTION OF DEPARTMENT OF DEFENSE EMPLOYMENT AUTHORITY.—Notwithstanding subsections (a) and (b), the Department of Defense may employ civilian personnel at ~~the facility~~ the James A. Lovell Federal Health Care Center if the Secretary of the Navy, or a designee of the Secretary, determines it is necessary and appropriate to meet mission requirements of the Department of the Navy.

SEC. 1704. JOINT FUNDING AUTHORITY.

(a) JOINT MEDICAL FACILITY DEMONSTRATION FUND.--

(1) ESTABLISHMENT.--There is established on the books of the Treasury under the Department of Veterans Affairs a fund to be known as the `Joint Department of Defense-Department of Veterans Affairs Medical Facility Demonstration Fund' (in this section referred to as the `Fund').

(2) ELEMENTS.--The Fund shall consist of the following:

(A) Amounts transferred to the Fund by the Secretary of Defense, in consultation with the Secretary of the Navy, from amounts authorized and appropriated for the Department of Defense specifically for that purpose.

(B) Amounts transferred to the Fund by the Secretary of Veterans Affairs from amounts authorized and appropriated for the Department of Veterans Affairs specifically for that purpose.

(C) Amounts transferred to the Fund from medical care collections under paragraph (4).

(3) DETERMINATION OF AMOUNTS TRANSFERRED GENERALLY.--The amount transferred to the Fund by each of the Secretary of Defense and the Secretary of Veterans Affairs under subparagraphs (A) and (B), as applicable, of paragraph (2) each fiscal year shall be such amount, as determined by a methodology jointly established by the Secretary of Defense and the Secretary of Veterans Affairs for purposes of this subsection, that reflects the mission-specific activities, workload, and costs of provision of health care at ~~the facility~~ the James A. Lovell Federal Health Care Center of the Department of Defense and the Department of Veterans Affairs, respectively.

(4) TRANSFERS FROM MEDICAL CARE COLLECTIONS.--

(A) IN GENERAL.--Amounts collected under the authorities specified in subparagraph (B) for health care provided at ~~the facility~~ the James A. Lovell Federal Health Care Center may be transferred to the Fund under paragraph (2)(C).

(B) AUTHORITIES.--The authorities specified in this subparagraph are the following:

(i) Section 1095 of title 10, United States Code.

(ii) Section 1729 of title 38, United States Code.

(iii) Public Law 87-693, popularly known as the `Federal Medical Care Recovery Act' (42 U.S.C. 2651 et seq.).

(5) ADMINISTRATION.--The Fund shall be administered in accordance with such provisions of the executive agreement under section 1701 as the Secretary of Defense and the Secretary of Veterans Affairs shall jointly include in the executive agreement. Such

provisions shall provide for an independent review of the methodology established under paragraph (3).

(b) AVAILABILITY.--

(1) IN GENERAL.--Funds transferred to the Fund under subsection (a) shall be available to fund the operations of ~~the facility~~ the James A. Lovell Federal Health Care Center, including capital equipment, real property maintenance, and minor construction projects that are not required to be specifically authorized by law under section 2805 of title 10, United States Code, or section 8104 of title 38, United States Code.

(2) LIMITATION.--The availability of funds transferred to the Fund under subsection (a)(2)(C) shall be subject to the provisions of section 1729A of title 38, United States Code.

(3) PERIOD OF AVAILABILITY.--

(A) IN GENERAL.--Except as provided in subparagraph (B), funds transferred to the Fund under subsection (a) shall be available under paragraph (1) for one fiscal year after transfer.

(B) EXCEPTION.--Of an amount transferred to the Fund under subsection (a), an amount not to exceed two percent of such amount shall be available under paragraph (1) for two fiscal years after transfer.

(c) FINANCIAL RECONCILIATION.--The executive agreement under section 1701 shall provide for the development and implementation of an integrated financial reconciliation process that meets the fiscal reconciliation requirements of the Department of Defense, the Department of the Navy, and the Department of Veterans Affairs. The process shall permit each of the Department of Defense, the Department of Navy, and the Department of Veterans Affairs to identify their fiscal contributions to the Fund, taking into consideration accounting, workload, and financial management differences.

(d) ANNUAL REPORT.--The Secretary of Defense, in consultation with the Secretary of the Navy, and the Secretary of Veterans Affairs shall jointly provide for an annual independent review of the Fund for at least three years after the date of the enactment of this Act. Such review shall include detailed statements of the uses of amounts of the Fund and an evaluation of the adequacy of the proportional share contributed to the Fund by each of the Secretary of Defense and the Secretary of Veterans Affairs.

(e) TERMINATION.--The authorities in this section shall terminate on ~~September 30, 2019~~September 30, 2020.

SEC. 1705. ELIGIBILITY OF MEMBERS OF THE UNIFORMED SERVICES FOR CARE AND SERVICES.

(a) IN GENERAL.--For purposes of eligibility for health care under chapter 55 of title 10, United States Code, ~~the facility~~ the James A. Lovell Federal Health Care Center (hereafter in this section referred to as the "JALFHCC") may be treated as a facility of the uniformed services to the extent provided in the executive agreement under section 1701.

(b) PRIORITY OF TREATMENT.--The executive agreement under section 1701 shall provide an integrated priority list for access to health care at ~~the facility~~ the JALFHCC, which list shall--

(1) integrate the respective health care priority lists of the Secretary of Defense and the Secretary of Veterans Affairs, giving first priority of care to members of the Armed Forces on active duty; and

(2) take into account categories of beneficiaries, enrollment program status, and such other matters as the Secretary of Defense and the Secretary of Veterans Affairs jointly consider appropriate.

(c) ADDITIONAL ELEMENTS.--The executive agreement under section 1701 may include provisions as follows:

(1) To incorporate any resource-related limitations for access to health care at ~~the facility~~ the JALFHCC that the Secretary of Defense may establish for purposes of administering space-available eligibility for care in facilities of the uniformed services under chapter 55 of title 10, United States Code.

(2) To waive the applicability to ~~the facility~~ the JALFHCC of any provision of section 8111(e) of title 38, United States Code, that the Secretary of Defense and the Secretary of Veterans Affairs shall jointly specify.

(3) To allocate financial responsibility for care provided at ~~the facility~~ the JALFHCC for individuals who are eligible for care under both chapter 55 of title 10, United States Code, and title 38, United States Code.

(4) To permit the JALFHCC to enter into personal services contracts to carry out health care responsibilities in the JALFHCC to the same extent and subject to the same conditions and limitations as apply under section 1091 of title 10, United States Code, to the Secretary of Defense in relation to health care responsibilities in medical treatment facilities of the Department of Defense.