

THE INDEPENDENT BUDGET

Veterans Agenda for the 116th Congress

Policy Recommendations for Congress and the Administration

Modernizing and Aligning VA's Infrastructure (AIR Act)

Subtitle A of Title II of the VA MISSION Act contains the provisions of the Asset and Infrastructure Act (AIR Act), H.R. 4243 in the House, which creates a new, one-time process to design, approve, and implement a comprehensive long-term plan to modernize and realign VA's health care infrastructure. The AIR process is timed to begin after VA develops and optimizes the integrated networks called for in Title I of the VA MISSION Act, so that VA and stakeholders can identify program service gaps and capital asset needs in the new local integrated networks.

Under the AIR process, VA will develop criteria to determine which VA facilities will be modernized, expanded, realigned, reduced, and/or potentially closed. The final guidelines must be published by May 2021. VA will then develop a list of recommendations for the future state of all VA facilities based on market assessments about the capacity of VA and non-VA providers to meet the demand by enrolled veterans for health care. VA's

recommendations then go to an independent nine-member Commission, three of whom will represent major VSOs. After undergoing a public review process in 2022, the Commission may approve, revise, or reject the facility recommendations. If approved by the Commission, the recommendations then go to the president in 2023 for review and potential approval. If approved by the president, the recommendations next go to Congress, which is required to hold a vote within 45 days on approving the full slate of recommendations. If a simple majority disapproves the resolution, the AIR process ends. If the recommendations are approved by Congress, VA must request sufficient funding to make the recommended changes and begin to implement the recommendations no later than March 2026. Importantly, the law requires that during the AIR process, VA must continue ongoing construction and leasing activities, as well as long-term infrastructure planning and budget requests to fulfill those plans.

Asset and Infrastructure Act (AIR Act) – Key Implementation Dates

Date	Deadline or Milestone Explanation
February 1, 2021	VA Submits Draft Criteria for Infrastructure Recommendations
May 31, 2021	VA Publishes Final Criteria for Infrastructure Recommendations
May 31, 2021	President Nominates Nine Commissioners - Need Senate Confirmation
January 31, 2022	After Consultations, VA Reports Infrastructure Recommendations
Jan - Dec, 2022	Commission Reviews VA's Recommendations, Public Hearings
January 1, 2023	Commission Approves, Modifies, or Rejects Recommendations
February 15, 2023	President Approves or Disapproves the Commission's Report
March 1, 2023	If President Disapproves, Must Report Reasons to Commission and Congress
March 15, 2023	If President Disapproves, Commission Responds With or Without Changes
March 30, 2023	Final Deadline for President to Approve or Disapprove Commission Report
May 15, 2023	If President Approves, Congress Has 45 Days to Pass Disapproval Resolution
2024 to 2025	VA Develops Implementation Plans, Congress Must Approve Sufficient Funding
March 1, 2026	Latest Date VA Can Begin to Implement Approved Recommendations

Recommendations

- Congress should amend Section 203(b)(3) of the VA MISSION Act to fully align the “Capacity and commercial market assessments” required for the VA Asset and Infrastructure Review (Title II, Subtitle A) with the “Market Area Assessments” required under Title I, Subtitle A –Developing an Integrated, High-Performing Network.**

During the 115th Congress, the AIR Act (H.R. 4243) was separate from VA community care reform legislation (H.R. 4242) in the House and only became part of the VA MISSION Act as a result of a late compromise between the House and Senate. As a result, there are two separate references to “market assessments” in the final VA MISSION Act. After consultation with VA and other key stakeholders, Congress should draft and enact legislation to align and harmonize the “market assessments” in the VA MISSION Act, and thereby eliminate any confusion. As part of this legislation, Congress should further emphasize the importance of performing market assessments in an open and transparent manner in collaboration with VSOs and other veteran stakeholders.

- In consultation with VSO stakeholders and Congress, VA should develop and implement a communications plan over the next two years to increase awareness and understanding among veterans, the public, and the media about the purposes and processes involved in the asset review.**

Prior attempts by VA to realign its infrastructure have been significantly hampered and curtailed due to public and congressional opposition based on local and parochial concerns. The AIR process will be most effective if the process is open, transparent, and well understood by veterans

who will be affected by changes. VA should partner with VSOs in the design and dissemination of communications materials to prepare veterans, the public, and the media for the AIR process that will begin in 2021.

- **Congress must continue to appropriate, and VA must continue to request and properly allocate, sufficient funding to maintain VA's existing health care infrastructure and expand capacity to deliver care in locations where demand for care justifies additional VA infrastructure.**

Although the AIR process does not formally begin until 2021, history has shown that once a review of VA assets is planned, Congress tends to scale back infrastructure funding until the process is complete. In the past, particularly during the Capital Asset Realignments for Enhanced Services (CARES) process in the early 2000s, reduction of infrastructure funding not only limited VA's capacity to meet rising demand, it also endangered both veterans and VA employees in aging facilities, some of which required immediate improvements for life safety problems. To avoid this problem with the AIR process, Congress specifically required that VA continue to request construction funding, and the IB recommends that VA and Congress apply this provision effective immediately, not just once the formal AIR process gets underway in 2021.

- **VA must continue to increase its internal capacity and expertise to maintain existing infrastructure, and build or lease new facilities, by hiring additional personnel and implementing the covered training curriculum and the covered certification program required by the VA MISSION Act.**

Regardless of the scale and scope of infrastructure changes that ultimately come out of the AIR process, VA must improve the management and oversight of its capital asset portfolio. The VA MISSION Act included provisions requiring that a new training and certification program be established no later than September 30, 2019, for its construction management employees, and it must meet that deadline. Additionally, VA must begin to increase the number of construction professionals to prepare for greater construction activity during and after the AIR process.

- **Congress and the Administration must resolve problems caused by Congressional Budget Office (CBO) and Office of Management and Budget (OMB) budgetary scoring rules for leasing federal facilities that have made it so difficult for VA to extend current or initiate new leases for health care facilities.**

As a result of decisions by OMB and interpretations by CBO, under current congressional Pay-As-You-Go (PAYGO) rules, Congress is required to offset the full 10-year lease cost of new or extended leases during the first year, thereby scoring it as if it were the same as a capital purchase. Due to the enormous overall score of such leases, Congress has been unable to overcome the PAYGO requirements for offsets and VA has had much greater difficulty leasing new and necessary facilities. This problem must be resolved prior to initiation of the AIR Act provisions in order to ensure that the infrastructure modernization and realignment can be successful.