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Veterans Affairs Asset and Infrastructure Review Act: Timeline and Funding

December 17, 2021

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SUMMARY

R46992

December 17, 2021

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Veterans Affairs Asset and Infrastructure Review Act: Timeline and Funding

In the early 2000s, the Department of Veterans Affairs (VA) undertook a review of its health care infrastructure through the Capital Asset Realignment for Enhanced Services (CARES) initiative. In 2004, the VA released a series of recommendations developed through CARES that called for the acquisition, modernization, consolidation, and closure of numerous Veterans Health Administration (VHA) medical facilities. Many of the recommendations were not implemented, however, and subsequent assessments concluded that VA's capital assets were not aligned with the future care needs of America's veterans.

In an effort to facilitate large-scale changes to VHA's capital asset portfolio, Congress in 2018 passed the Asset Infrastructure Review Act (AIR Act), Title II of the VA MISSION Act (P.L. 115-182). The act establishes a new process for the development, review, approval, and implementation of a list of recommendations for the modernization and realignment of VHA medical facilities. The act requires the VA Secretary to develop the initial list of recommendations, including the acquisition of new space, the modernization of existing space, and the disposal of unneeded space. The Secretary is required to consult with veterans and local officials when developing the recommendations. The recommendations are to be submitted to the Asset and Infrastructure Review Commission by January 31, 2022. The commission, comprised of nine members nominated by the President and approved by the Senate, reviews the recommendations and holds public hearings. It may propose changes under the limited circumstances prescribed in the AIR Act. The commission is required to submit the final list of recommendations to the President by January 31, 2023. The President is to notify the commission and Congress if it approves or disapproves the list by February 15, 2023. If disapproved, the commission may revise the recommendations and submit a new list by March 15, 2023. The President has until March 30, 2023, to approve the commission's initial or revised recommendations in their entirety and submit them to Congress or the modernization and realignment process terminates. If the President approves of the recommendations, Congress has 45 days from the date of approval to terminate the process by enacting a joint resolution of disapproval. If Congress does not enact a joint resolution of disapproval, VA is required to implement the recommendations.

Real property funding for the construction, alteration, and repairs of VHA medical facilities is generally appropriated to three accounts: (1) major construction (projects over $20 million); (2) minor construction (projects under $20 million); and (3) non-recurring maintenance (NRM). In FY2021, the major construction account received $1.316 billion, minor construction received $357 million, and NRM received $2.097 billion. The AIR Act established a new account in Treasury, known as the Department of Veterans Affairs Asset and Infrastructure Review Account to be used expressly for the purpose of funding the realignment and modernization of VHA facilities pursuant to AIR Act recommendations. The account is authorized to receive direct appropriations as well as proceeds generated by the lease transfer, or disposal of real property under the AIR Act. VA submitted its first funding request for the account in its FY2022 budget justification—$5 million to support the operations of the commission.

Some have likened the AIR Act to Base Realignment and Closure (BRAC) legislation, whereby the Department of Defense (DOD) recommends the closure or relocation of military installations. There are some similarities between the two processes, notably that both BRAC legislation and the AIR Act (1) utilize independent commissions to develop recommendations; and (2) do not allow Congress to amend the list, only to pass a joint resolution of disapproval to prevent the recommendations approved by the President from being implemented. There are many differences, as well. For example, whereas AIR Act recommendations are directed at meeting the needs and preferences of veterans and communities, BRAC recommendations are intended to meet a need internal to the government—creating a base structure that efficiently and effectively supports DOD forces.

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Background[1]

The Department of Veterans Affairs (VA) provides health care services through the Veterans Health Administration (VHA) for approximately 9.21 million enrolled veterans[2] at 1,389 VA sites of care.[3] The VHA operates one of the nation's largest publicly funded integrated direct health care delivery systems.[4] VHA is the largest and most visible administration within VA, and it accounts for about 98% of VA's capital asset portfolio (see **Table 1**). This includes 5,625 VHA-owned buildings with a total of 152.8 million square feet of space on 16,373 acres of land. The portfolio also includes 1,690 leases with a total of 20.1 million square feet of space.[5] According to FY2020 data, VA is the federal government's third largest real property holder, in terms of square feet, behind the Department of Defense (DOD) and the General Services Administration (GSA).[6]

Table 1. VA Real Property Summary

VA Capital Asset Inventory, as of September 30, 2020

	Owned Assets					Leased Assets	
Office	**Buildings**	**Historic Buildings**	**Building Sq.Ft.**	**Vacant Sq.Ft.**	**Land Acres**	**Operational Leases**	**Lease Sq.Ft.**
VHA[a]	5,625	2,088	152,823,638	5,502,627	16,373	1,690	20,147,336
VBA[b]	14	0	735,322	0	31	179	4,511,342
NCA[c]	606	146	1,320,383	63,371	22,903	9	29,691
Staff Offices[d]	10	1	1,771,034	0	193	105	3,382,380
Totals	**6,255**	**2,235**	**156,650,377**	**5,565,998**	**39,500**	**1,983**	**28,070,749**

Source: Department of Veterans Affairs, *FY2022 Budget Submission, Construction, Long Range Capital Plan, and Appendices,* vol. 4 of 4, May 28, 2021, p. 6.2-7.

Notes:

a. Veterans Health Administration.

b. Veterans Benefits Administration.

c. National Cemetery Administration.

d. Staff Offices are General Counsel; Inspector General; Enterprise Integration; Public and Intergovernmental Affairs; Congressional and Legislative Affairs; Acquisition, Logistics, and Construction Management; Human Resources and Administration; and Information Technology.

[1] This section was written by Sidath Panangala, Specialist in Veterans Policy.

[2] Department of Veterans Affairs, *FY2022 Budget Submission, Medical Programs and Information Technology Programs*, vol. 2 of 4, May 28, 2021, p. VHA – 38.

[3] Department of Veterans Affairs, *FY2022 Budget Submission, Medical Programs and Information Technology Programs*, vol. 2 of 4, May 28, 2021, p. VHA – 443. Sites of care used in this calculation are VA hospitals, community living centers, health care centers, community-based outpatient clinics (CBOCs), and other outpatient service sites.

[4] Department of Veterans Affairs, *FY 2009 Performance and Accountability Report*, Washington, DC, November 16, 2009, p. I-42. Established on January 3, 1946, as the Department of Medicine and Surgery by P.L. 79-293, succeeded in 1989 by the Veterans Health Services and Research Administration, renamed the Veterans Health Administration in 1991.

[5] Department of Veterans Affairs, *FY2022 Budget Submission, Medical Programs and Information Technology Programs*, vol. 2 of 4, May 28, 2021, p. VHA – 443.

[6] U.S. General Services Administration, *FY2020 FRPP Summary Data Set*, at https://www.gsa.gov/policy-regulations/policy/real-property-policy/data-collection-and-reports/frpp-summary-report-library.

The last major comprehensive review of VA real property and medical facilities throughout the country was done under the Capital Asset Realignment for Enhanced Services (CARES) program. In October 2000, VA established the CARES program with the goal of evaluating the projected health care needs of veterans over the next 20 years and of realigning VA's infrastructure to better meet those needs. In August 2003, VA's then-Undersecretary for Health issued a preliminary Draft National CARES Plan (DNCP). The DNCP, among other things, recommended that seven VA health care facilities be closed and that duplicative clinical and administrative services delivered at over 30 other VHA facilities be eliminated. The DNCP also recommended the construction of two new major medical facilities and funding infrastructure upgrades at numerous sites. In addition, the draft plan called for the establishment of 48 new high-priority Community Based Outpatient Clinics (CBOCs).

Following the release of the DNCP, then-VA Secretary Anthony Principi appointed a 16-member independent commission to study the draft plan. The commission was composed of individuals from a wide variety of backgrounds outside of the federal government. The CARES Commission developed and applied six factors in the review of each proposal in the DNCP: (1) impact on veterans' access to health care, (2) impact on health care quality, (3) veteran and stakeholder views, (4) economic impact on the community, (5) impact on VA missions and goals, and (6) cost to the government. The commission conducted 38 public hearings and 81 site visits throughout 2003 and submitted its recommendations to the Secretary in February 2004. After reviewing the recommendations, the Secretary announced the final details of the CARES plan in May 2004 (Secretary's CARES Decision). The final plan called for consolidating several facilities, as well as building new hospitals in Orlando and Las Vegas; adding 156 new CBOCs, four new spinal cord injury centers, and two blind rehabilitation centers; and expanding mental health outpatient services nationwide. However, critics of the CARES plan contended that closures were considered without assessing what kind of facilities would be needed for long-term care and mental health care in the future. Also, some believed that the CARES plan did not focus enough on future nursing home needs, would leave VA short of beds in a few decades, and, as a result, would leave VA with no choice but to privatize some parts of the health care system. Moreover, some veterans' groups believed that CARES was about closing "surplus" hospitals and did not believe CARES would result in the building of new and modern facilities. Finally, the closure of some VA medical facilities raised serious concern among some Members of Congress who felt that they had little control over the CARES process.[7]

A subsequent assessment of the VA health care system, required by Section 201 of Veterans Access, Choice, and Accountability Act of 2014 (VACAA; P.L. 113-146),[8] found that

> [c]urrent facilities, whether they have been maintained adequately or not, often do not match current models of care. The overwhelming majority of VHA hospitals were designed when care was focused more heavily around inpatient hospital treatments. Over the past eight years, Veteran inpatient bed days of care have declined nearly ten percent while outpatient clinic workload has increased more than 40 percent. Space for outpatient care is typically housed in converted inpatient spaces or VHA's growing number of clinics. As a result, VHA's capital needs fall into a broad range of categories, including ensuring adequate facility condition, providing sufficient and appropriate space for Veteran care,

[7] Honorable Bob Graham, "Statements on Introduced Bill and Joint Resolutions," remarks in the Senate, *Congressional Record*, 108th Congress, vol. 149 (June 18, 2003), p. S8135.

[8] For more information, see CRS Report R43704, *Veterans Access, Choice, and Accountability Act of 2014 (H.R. 3230; P.L. 113-146)*.

> and upgrading infrastructure. As facilities age further and care continues to shift to the outpatient setting, the size of the capital need could continue to grow.[9]

Furthermore, a new Commission on Care was established by VACAA "to examine the access of veterans to health care from the Department of Veterans Affairs and strategically examine how best to organize the [VHA], locate health resources, and deliver health care to veterans."[10] In its final report, it recommended that the VA "develop and implement a robust strategy for meeting and managing VHA's facility and capital asset needs."[11]

Within this context, the House Committee on Veterans' Affairs (HVAC) began to examine VA's capital asset program in the summer of 2017. At a hearing held on July 12, 2017, former Secretary Principi testified, "under CARES there was no requirement for Congress to adopt or reject the commission's final recommendations as a package. As a result, recommendations for some needed new hospitals and outpatient clinics were accepted. Most of those to change, realign, or maybe close the mission of other facilities were rejected."[12]

Based on input and recommendations from various stakeholders, the VA Asset and Infrastructure Review Act (AIR Act) of 2017 (H.R. 4243) was introduced in the 115th Congress. H.R. 4243 was ordered reported by the Committee on Veterans' Affairs on November 8, 2018, but did not reach the floor for a vote. Provisions from H.R. 4243 were incorporated as Title II of the Senate version of the VA MISSION Act (S. 2372)—legislation that addressed a range of VA health care issues. The MISSION Act was signed into law on June 6, 2018 (P.L. 115-182).[13]

The remainder of this report provides an overview of the AIR Act (as Title II of the MISSION Act was labeled) and then discusses in greater detail how recommendations for the modernization and realignment of VHA's real property portfolio are developed, approved (or disapproved), and implemented under the act. The report then provides data on VA real property funding FY2017-FY2022 and concludes with policy considerations related to real property data quality and portfolio decisions at VA.

AIR Act Timeline

As noted, the AIR Act has its origins in long-standing concerns that VA's medical infrastructure is not optimally configured to effectively and efficiently meet the evolving health care needs of America's veterans. To address these concerns, the AIR Act establishes a new process for developing, vetting, and implementing recommendations for the modernization or realignment of medical facilities under the control of VHA. The process is described in broad terms below and in more detail in the following paragraphs of this report.

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[9] CMS Alliance to Modernize Healthcare Federally Funded Research and Development Center, MITRE Corporation, *Independent Assessment of the Health Care Delivery Systems and Management Processes of the Department of Veterans Affairs*, Volume I: Integrated Report, September 1, 2015, pp. K-2.

[10] The Veterans Access, Choice, and Accountability Act of 2014 (P.L. 113-146, as amended).

[11] Commission on Care, *Final Report of the Commission on Care*, June 30, 2016, p. 55.

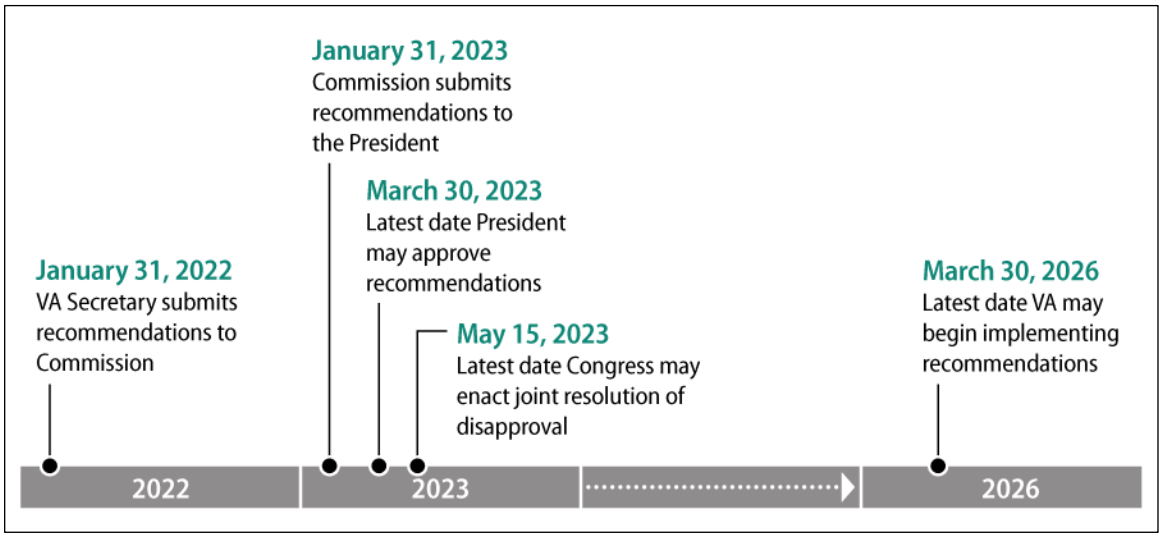
[12] U.S. Congress, House Committee on Veterans' Affairs, *Care Where It Counts: Assessing VA's Capital Asset Needs*, 115th Cong., 1st sess., July 12, 2017 (Washington, DC: GPO, 2018), p. 5.

[13] For more information and summary of the VA MISSION Act, see CRS Report R45390, *VA Maintaining Internal Systems and Strengthening Integrated Outside Networks Act of 2018 (VA MISSION Act; P.L.115-182)*.

Overview

The AIR Act requires the VA Secretary to develop the initial list of recommendations, including the acquisition of new space, the modernization of existing space, and the disposal of unneeded space. The VA Secretary is required to submit the recommendations to the Asset and Infrastructure Review Commission by January 31, 2022. The commission, comprised of nine members nominated by the President and approved by the Senate, reviews the recommendations and may propose changes under limited circumstances prescribed in the AIR Act. The commission is required to submit the final list of recommendations to the President by January 31, 2023. The President has until March 30, 2023, to approve the commission's recommendations in their entirety and submit them to Congress or the modernization and realignment process terminates. Once the President approves of the recommendations, Congress has 45 days to terminate the process by enacting a joint resolution of disapproval. Such action must occur by May 15, 2023. If Congress does not enact a joint resolution of disapproval, VA is required to implement the recommendations. The latest date VA may begin implementing the approved recommendations is March 30, 2026. **Figure 1**, below, provides an abbreviated view of the recommendation process.

Figure 1. Overview of the Recommendation Timeline



Source: Created by CRS using Title II of the VA MISSION Act of 2018 (P.L. 115-182).

Recommendation Timeline

Within the broad steps outlined above, the Air Act establishes additional deadlines and mandates. For example, the act requires the use of objective criteria in decisionmaking and consultation with veterans and local leaders when developing, changing, and implementing Air Act recommendations. **Figure 2**, at the end of this section, provides a detailed view of this timeline along with a brief description of the actions required.

June 6, 2018: Air Act Becomes Law

February 1, 2021: VA Publishes Draft Selection Criteria

The Air Act requires VA, in consultation with Veterans Service Organizations (VSOs), to develop criteria for making recommendations and publish those criteria by February 1, 2021. VA published the draft criteria in the *Federal Register* on February 2, 2021.[14]

February 5, 2021: VA Publishes Notice of Market Assessments

The act requires VA to conduct market assessments to determine the capacity of its medical facilities to meet the current and future health care needs of veterans in each of 18 service regions, known as Veterans Integrated Services Networks (VISNs). As part of the assessment process, VA is required to consult with VSOs and veterans in each VISN to hear about their experiences with the VA health care system and learn their preferences for care delivery in the future. On February 5, 2021, VA published a notice in the *Federal Register* informing the public that the agency would hold a series of "listening sessions" to obtain the input of veterans and other stakeholders.[15]

May 31, 2021: Commissioners Nominated

The act requires the establishment of a nine-member Asset and Infrastructure Review Commission. The President appoints all nine members with the advice and consent of the Senate. The President is required to consult with House and Senate leadership and congressionally chartered, membership-based veterans organizations when selecting individuals to nominate to the commission. The President shall designate one nominee to serve as Chair of the commission and one nominee to serve as Vice Chair.

In nominating individuals, the President shall ensure that the commission adequately represents the current demographics of veterans. In addition, the commission is to include

- at least one member with experience working for a private integrated health care system with annual gross revenues of more than $50 million;
- at least one member with experience as a senior manager at DOD, Indian Health Service, or a Federally Qualified Health Center;
- at least one member with experience with capital asset management for the federal government and who is familiar with trades related to building and real property; and
- at least three members who represent congressional chartered, membership-based VSOs.

The deadline for nominations was May 31, 2021. The President had not nominated any commissioners by December 15, 2021.

[14] Department of Veterans Affairs, "Draft Criteria for Section 203 of the VA Mission Act of 2018," 86 *Federal Register* 7921, February 2, 2021, at https://www.federalregister.gov/documents/2021/02/02/2021-02138/draft-criteria-for-section-203-of-the-va-mission-act-of-2018.

[15] Department of Veterans Affairs, "VA Market Assessment Listening Sessions," 86 *Federal Register* 8486, February 5, 2021, at https://www.federalregister.gov/documents/2021/02/05/2021-02446/va-market-assessment-listening-sessions.

May 31, 2021: VA Publishes Final Selection Criteria

The act requires VA to publish the final criteria for making recommendations in the *Federal Register* not later than May 31, 2021. The final criteria were published May 28, 2021.[16] The final criteria require VA to ensure that each recommendation

- aligns VA's high performing integrated network resources to effectively meet the future health care demand of the veteran enrollee population with the capacity of the market;
- maintains or improves veteran access to care;
- provides for VA's health-related missions of education, research, and emergency preparedness;
- considers the quality of and delivery of health care services available to veterans, including experience, safety, and appropriateness of care;
- provides a cost-effective means by which to provide veterans with modern health care; and
- creates a sustainable health care delivery system for veterans.

January 31, 2022: VA Submits List of Recommendations

Using the selection criteria and input from VSOs, VA is to develop a list of VHA properties to modernize or realign and submit it to the commission by January 31, 2022. VA must also publish the list in the *Federal Register* and submit it to the Committees on Veterans' Affairs in the House and the Senate. In addition, VA is to provide the committees, the commission, and the Comptroller of the United States a copy of all of the information used to prepare the recommendations.

February 1, 2022-January 30, 2023: Commission Reviews Recommendations

As part of its review and analysis of VA's recommendations, the commission is required to hold public hearings. The hearings must be held in VISN regions where a VHA facility is recommended for closure, and witnesses must include veterans and local elected officials. Hearings on other recommendations are encouraged but not required. The commission may change a recommendation only if it determines that the proposal substantially deviates from the selection criteria and that the change is consistent with the selection criteria. The commission must hold public hearings on the proposed change and publish a notice in the *Federal Register* explaining the change at least 45 days before submitting its final list of recommendations to the President.

January 31, 2023: Commission Submits Recommendations to President

The commission is required to submit a report containing its finding and conclusions regarding VA's recommendations, along with the commission's recommendations for modernizing and aligning VHA facilities, by January 31, 2023. The report shall also include a justification for any changes made to VA's initial recommendations.

[16] Department of Veterans Affairs, "Notice of Asset and Infrastructure Review (AIR) Commission Foreword and Criteria," 86 *Federal Register* 28932, May 28, 2021, at https://www.federalregister.gov/documents/2021/05/28/2021-11398/notice-of-asset-and-infrastructure-review-air-commission-foreword-and-criteria.

February 15, 2023: President Approves or Disapproves Recommendations

Not later than February 15, 2023, the President is required to transmit to the commission and to Congress a report containing the President's approval or disapproval of the commission's recommendations.

March 1, 2023: President Transmits Reasons for Disapproval

If the President disapproves of the commission's recommendations, in whole or in part, the President is to transmit to the commission and to Congress, not later than March 1, 2023, the reasons for that disapproval.

March 15, 2023: Commission Resubmits Recommendations

The commission has until March 15, 2023, to review the President's reasons for disapproval and submit a revised list of recommendations.

March 30, 2023: President Transmits Recommendations to Congress

If the President approves of the commission's initial or revised list of recommendations, then the President is to transmit a copy of the recommendations and a certification of approval to Congress no later than March 30, 2023. If the President does not submit an approved list of recommendations to Congress by this date, then the modernization and realignment process is to be terminated.

45 Days after President Transmits Recommendations: Deadline for Congress to Disapprove

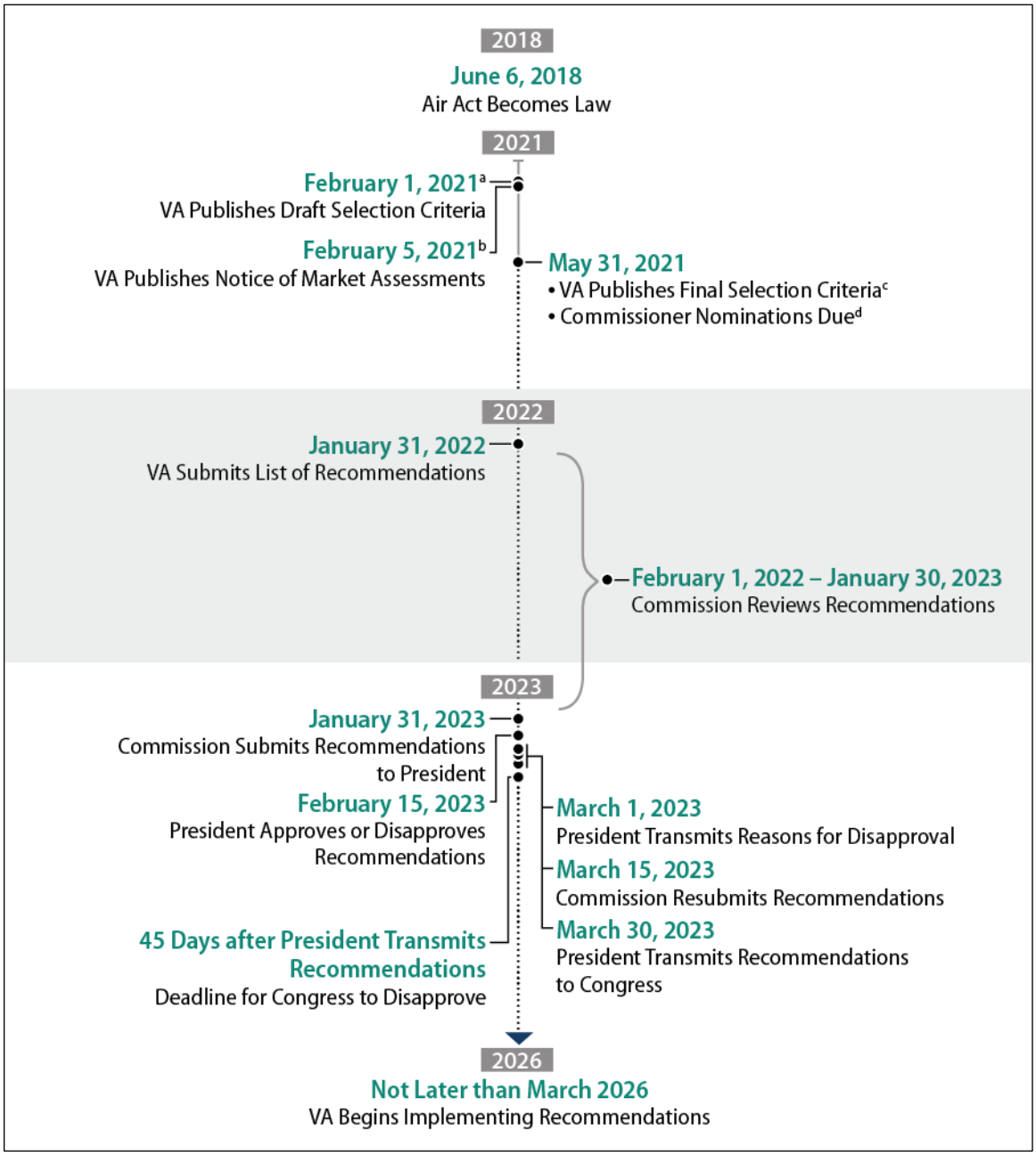
Once the President transmits the list of approved recommendations, Congress has 45 days to enact a joint resolution of disapproval. If Congress does not enact a joint resolution of disapproval within that time frame, VA is required to implement the President's recommendations. Such action must take place by May 15, 2023.

Not Later than March 2026: VA Begins Implementing Recommendations

VA is required to begin implementing the approved recommendations no later than March of 2026. VA is authorized to take any action necessary to modernize or realign any facility—including through alteration, lease, acquisition, construction, or disposal of property—as well to carry out environmental mitigation, abatement, or restoration. In addition, VA is required to carry out environmental abatement, mitigation, and restoration, as well as comply with historic preservation requirements, on any properties made excess to VA's needs as a result of modernization or realignment.

Prior to disposing of any surplus real property, VHA must consult with the governor of the state and the heads of the local governments concerned to discuss any plans for the use of the property by the local community. Similarly, VHA must consult with the governor of the state and heads of local governments to ensure the continued availability of any roads used for public access around a facility recommended for closure or realignment.

Figure 2. Detailed Timeline of the Recommendation Process



Source: Created by CRS using Title II of the VA MISSION Act of 2018 (P.L. 115-182).

Notes:

a = The draft selection criteria were published in the *Federal Register* on February 2, 2021.

b = The Air Act does not include a requirement to publish the Notice of Market Assessments.

c = The final selection criteria were published in the *Federal Register* on May 28, 2021.

d = The President had not nominated any individuals to the commission by December 15, 2021.

Funding

Implementation of the Air Act is part of VA's overall capital asset management responsibilities. As previously noted, VA has the third largest portfolio of federal building space.[17] Among the challenges VA faces managing its portfolio are

- Age: approximately 56% of VA's owned inventory is more than 50 years old.[18]
- Repair needs: VA estimates that the repair needs of its buildings exceed $19 billion.[19]
- Vacancies: Nearly 400 buildings are vacant; that number may increase if the Air Act recommendation process results in the closure of VHA facilities.[20]

VA has historically requested much of its capital asset funding through three accounts: major construction—new building projects with an estimated cost in excess of $20 million;[21] minor construction—projects costing $20 million or less; and non-recurring maintenance (NRM)—projects that maintain and modernize existing properties.[22] **Table 2** shows funding for these three accounts for FY2017-FY2021.

Table 2.VA Capital Asset Funding, Selected Accounts, FY2017-FY2021

In millions of dollars

Accounts	FY2017	FY2018	FY2019	FY2020	FY2021
Major Construction	$326	$1,443	$2,504	$1,270	$1,316
Rescission	(20)	(420)	—	—	—
Minor Construction	372	768	800	399	390
Rescission	—	—	—	—	(36)
Supplemental	—	4	—	—	—
Non-Recurring Maintenance	1,069	1,646	1,753	1,427	2,097

Sources: Major and minor construction data are taken from CRS Report R46964, *Department of Veterans Affairs FY2022 Appropriations*. Non-recurring maintenance data are from VA budget requests, FY2019-FY2022.

The act establishes a new account in Treasury known as the "Department of Veterans Affairs Asset and Infrastructure Review Account." Funding for the account comes from two sources:

[17] U.S. General Services Administration, *FY2020 Federal Real Property Summary Report*, at https://www.gsa.gov/policy-regulations/policy/real-property-policy/data-collection-and-reports/frpp-summary-report-library.

[18] Based on data provided by the Department of Veterans Affairs.

[19] U.S. General Services Administration, *FY2020 Federal Real Property Summary Report*, at https://www.gsa.gov/policy-regulations/policy/real-property-policy/data-collection-and-reports/frpp-summary-report-library.

[20] U.S. Government Accountability Office, *VA Real Property: Clear Procedures and Improved Data Collection Could Facilitate Property Disposals*, GAO-19-148, January 2019, pp. 2-3, at https://www.gao.gov/assets/gao-19-148.pdf.

[21] Department of Veterans Affairs, *Financial Policy: Appropriations, Funds, and Related Information*, April 2019, p. 1, at https://www.va.gov/finance/docs/va-financialpolicyvolumeiichapter02i.pdf.

[22] U.S. Government Accountability Office, *VA Construction: Management of Minor Construction and Non-Recurring Maintenance Programs Could be Improved*, GAO-18-479, July 2018, p. 5, at https://www.gao.gov/assets/gao-18-479.pdf.

appropriations; and proceeds generated from the lease, transfer, or disposal of VHA facilities pursuant to an Air Act recommendation. Funds in the account may be used to cover the costs associated with implementing the recommendations—including the commission's costs—or for other purposes that the VA Secretary determines support VA's mission. VA submitted its first request for Air Act funding in its FY2022 budget, requesting $5 million to support the operations of the commission.[23] The FY2022 Military Construction, Veterans Affairs, and Related Agencies (MILCON-VA) appropriations bill passed by the House provides $5 million as requested. The Senate Appropriations Committee has reported its version of the MILCON-VA bill, which includes the $5 million.[24]

Concluding Observations

The AIR Act has been likened to Base Realignment and Closure (BRAC) legislation,[25] a series of laws that established procedures to close and relocate military installations in discrete rounds (see Appendix A for a brief overview of BRAC). There are some structural similarities. Notably, both the AIR Act and BRAC legislation

- create an independent commission that examines the list of recommendations; and
- require Congress to enact a joint resolution of disapproval to terminate the process. Congress cannot amend the list but can approve or reject it.

The AIR Act and BRAC legislation differ in many ways, particularly in terms of policy context. For example, the central objective of the AIR Act is to better align the delivery of government services (health care) to nonfederal beneficiaries (former servicemembers). BRAC recommendations, by contrast, are largely guided by needs internal to the government—enhancing the efficiency and effectiveness of the military. In addition, while DOD has the authority to reassign servicemembers to new installations as BRAC recommendations dictate, VA must calculate the potential loss of personnel that could result as staffing requirements in particular locations shift pursuant to Air Act recommendations.

[23] Department of Veterans Affairs, *FY2022 Budget Submission: Budget in Brief*, May 2021, p. 4, at https://www.va.gov/budget/docs/summary/fy2022VAbudgetInBrief.pdf.

[24] For funding details, see CRS Report R46964, *Department of Veterans Affairs FY2022 Appropriations*.

[25] GovExec, "VA Is at a Crossroads As It Kicks Off BRAC-Style Review of Medical Facilities," March 26, 2021, at https://www.govexec.com/management/2021/03/va-crossroads-it-kicks-brac-style-review-medical-facilities/172957/.

Appendix A: Base Realignment and Closure Legislation

What Is a Base Realignment and Closure (BRAC)?

- Congress has periodically enacted temporary authorities—known as BRAC laws—to facilitate the relocation or closure of military installations to more efficiently and effectively support the Department of Defense's (DOD's) mission.
- In 1988, 1991, 1993, 1995, and 2005, an independent Defense BRAC Commission was authorized in each BRAC law to recommend the disposal of unneeded defense facilities throughout the United States.
- To date, these BRAC commissions have recommended the closure and realignment of more than 100 DOD facilities throughout the United States.

BRAC Process Overview

- While BRAC laws are not identical, a common framework has remained generally consistent across each "BRAC round." This framework includes
  - establishment of an independent commission (i.e., the BRAC Commission);
  - reliance on objective and uniform criteria (Congress has frequently defined BRAC selection criteria in statute);
  - Government Accountability Office (GAO) review and certification of DOD data;
  - deliberations designed to be transparent that include open hearings, solicitation of feedback, installation visits, and data available for public review; and
  - a requirement that the final list of closure and realignment recommendations be accepted or rejected in their entirety.
- Under the terms of the statutes that authorized previous BRAC rounds, the BRAC Commission's recommendations automatically take effect unless the House and Senate pass a joint resolution of disapproval rejecting them in their entirety.
- The most recent BRAC round initiated in 2005 took approximately 10 years, from authorization to completion.
  - It may take several years to execute the transfer of DOD real property to a non-DOD entity. This is often due to the environmental remediation processes that must be completed before DOD real property is transferred, or the determination of financial viability of a non-DOD entity to accept and manage the property.

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