

**STATEMENT OF  
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THE AMERICAN LEGION  
BEFORE THE  
COMMITTEE ON VETERANS' AFFAIRS  
U.S. HOUSE OF REPRESENTATIVES  
ON  
"THE ASSET AND INFRASTRUCTURE REVIEW ACT OF 2017, AND H.R. 2773, TO  
AUTHORIZE THE SECRETARY OF VETERANS AFFAIRS TO SELL PERSHING  
HALL"**

**OCTOBER 12, 2017**

Chairman Roe, Ranking Member Walz, and distinguished members of the Committee on Veterans' Affairs; on behalf of National Commander Denise H. Rohan and The American Legion, the country's largest patriotic wartime service organization for veterans, comprised of more than 2 million members, and serving every man and woman who has worn the uniform for this country, we thank you for inviting The American Legion to testify today and share our position regarding The Department of Veterans Affairs' (VA) Asset Infrastructure Review.

**Draft legislation, the Asset and Infrastructure Review – or AIR - Act of 2017**

VA currently maintains a complex physical infrastructure of thousands of buildings that deliver coordinated care to more than nine million enrolled veterans. Over the years, many of the buildings VA uses to deliver this care have been left to deteriorate in favor of fiscal savings, leaving veterans with a collection of aged infrastructures. The VA, Veteran Service Organizations (VSOs), Congress, and even the Commission on Care have long known that VA needs to clean up their physical inventory of properties by: discarding some, rehabilitating others, and rebuilding where demand requires it; and this rehabilitative process is what needs to happen today.

Since we are addressing infrastructure, capacity, and fiscal responsibility through this legislative discussion draft, The American Legion requests that this Committee use this legislation as a vehicle to expand VA's leasing authority to avoid future funding and jurisdictional hurdles that VA and Congress have struggled with over the past four years.

The American Legion appreciates the Committee recognizing their need to support the Secretary as he works toward streamlining and organizing the physical property VA is responsible for maintaining. We also applaud the Committee for ensuring that VSOs are integral in this process through round table discussions, staff meetings, and this hearing.

Comparisons have been made between the proposed Asset and Infrastructure Review process contemplated by this draft legislation and the Base Closure and Realignment Commission (BRAC) process the Department of Defense (DoD) has used to realign and close excess bases. It is important to note that BRAC was established because DoD had reduced its active duty force

from nearly 3.8 million active duty personnel following Vietnam, to just over 1.3 million in 2000. This is clearly not the case with VA, and the need to restructure is based on the need to refurbish and modernize infrastructure so that VA can provide 21st century medicine to a growing population of veteran patients at a controlled cost with superior results.

The American Legion fundamentally disagrees with the establishment of a commission to oversee or assist the Secretary with structural realignment and generally opposes such a recommendation believing that the Secretary already has sufficient statutory authority to reorganize infrastructure, and would only need some minor legislative assistance from Congress, legislative changes that VA has already shared with this Committee in the past, and has shared here again today. But if establishing a Commission is the only way Congress will agree to financially invest in this effort, then The American Legion would require the following language be amended as follows;

1. Page 2, line 8 (A) APPOINTMENT – Change from 11 members to 9 members with three of those members appointed from Congressionally chartered Veteran Service Organizations (VSO). Further, language needs to be added that directs “a quorum must consist of all nine members, and all official votes must be ratified by no less than two-thirds of the voting members.” The next acceptable number of Commission members would be 12, with no less than **4** members appointed from Congressionally chartered VSOs. Additionally, a VSO seat on this commission must belong to the VSO, not the individual representing the VSO, and the VSO has sole authority to replace its representative at any time; any vacation of the seat shall be refilled by the VSO within 10 business days.
2. Page 3, line 16 (A) veterans, reflecting current veteran demographics: This needs to be further defined. Reflecting current demographics of VA healthcare patient population is what The American Legion would recommend, as this would be the population most affected by future changes based on this initiative.
3. Page 4, line 12 (E): “at least three members” needs to be increased to “at least four members” unless item 1 above is changed to nine members.
4. Page 4, line 15 (d) Meetings – The Commission shall meet only during calendar years 2018 and 2019. This should be amended to reflect 2018, 2019, and 2020 as needed. It is widely believed that VA will need at least 18 months to complete the required healthcare market surveys before they will be ready to publish the selection criteria as outlined in section 403.
5. Page 6, line 16 (f) PAY AND TRAVEL EXPENSES – The American Legion understands that the members to be selected for this Commission would represent multimillion dollar organizations as well as other senior executives who should be well capable of serving at the pleasure of Congress for the sole purpose of volunteering, pride, patriotism, and the prestige of serving on this important Commission. It is for this reason The American Legion **opposes** Committee members being paid or being enriched in any way as a result of serving on this Commission, and that includes the Chair as outlined on page 7, line 3 (B). This is not, however, our position on the fulltime support staff as described on page 8 line 7 (2) RATE OF PAY.

6. Page 9, line 13 (C): Strike this section unless there is some prohibition as outlined in the Federal Advisory Committee Act.<sup>1</sup> If this Commission were fortunate enough to have an appointee that had been instrumentally involved in this process as an employee at VA within 12 months of appointment, The American Legion is at a loss to understand the logic of how this could possibly present a conflict. On the other hand, contractors who would be in a position to benefit financially from the outcome of the Commission's work should be excluded.
7. Page 14, line 1 (H): Remove this clause. The Secretary has no experience or access to information that would qualify him to make any such determination on any other than his own agency.
8. Page 14, line 8 (J): insert "a reasonable sampling of" before "Local". It would not be feasible for the Commission or the VA to conduct public field hearings at every proposed location targeted for infrastructure review, especially if the proposed realignment only involved a storage or maintenance building. The language should include mandatory field hearings for any facility that provides direct medical services for the Department.
9. It needs to be understood that the market analysis as directed by the clause in page 14, line 22 (i),(ii),(iii),(iv),(v) will take more time than this bill allows for, which is why The American Legion recommends extending the dates set forth in this proposed draft to dates agreed upon by the Department.
10. Page 19, line 20 (C) needs to be changed to: The Commission "will recommend changes to the Committees of Veterans Affairs of the House and Senate". The American Legion **adamantly opposes** granting the Commission unilateral authority to change or amend the recommendations of the Secretary.
11. A clause needs to be added that prohibits land sold or granted to the VA from being included in any recommendations by this Committee that would result in violation of a trust, agreement, or deed such as would be the case with the property located in West Los Angeles, California.

Without these small but extremely significant changes, The American Legion WILL NOT support this bill and will aggressively oppose any efforts to allow this bill to move forward.

Provided these issues can be sufficiently addressed, The American Legion would be able to support this effort and further supports the overall theme of what this Committee is trying to do – reorganize, build capacity, and eliminate waste within The Veterans Health Administration at the Department of Veterans Affairs.

We particularly appreciate that this effort would be led by the Secretary of Veterans Affairs, beginning with the establishment of selection criteria, through the selection of locations, and including the maintenance of funds responsible for carrying out this much-needed reform.

We also fully support the provision starting on page 12, line 21 (A) & (D) that calls on the Department to establish a market analysis for providing healthcare for eligible veterans, and again remind this Committee that this market analysis will take time to complete, analyze, and implement, and the only realignment that can possibly be committed to before this analysis is

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<sup>1</sup> <https://www.gsa.gov/policy-regulations/policy/federal-advisory-committee-management/legislation-and-regulations/the-federal-advisory-committee-act>

complete would only involve the 1,100 structures the Secretary has already identified for disposal. All further restructuring will need to be recommended after the healthcare market analysis has been completed.

With an appreciation and understanding of these requirements, The American Legion asks this committee to consider structuring this project into more than one round of recommendations, allowing VA and the Commission to fully develop the research necessary to implement this program properly, while allowing sufficient time for proper analysis and execution.

**The American Legion could support the AIR Act of 2017 with the changes recommended above.**

### **H.R. 2773**

#### *To authorize the Secretary of Veterans Affairs to sell Pershing Hall*

Nearly 100 years ago, members of the American Expeditionary Force in World War I came together to “preserve the memories and incidents of our associations [in] the Great War[s]”<sup>2</sup> and as the 100<sup>th</sup> anniversary of our founding approaches, The American Legion is still dedicated to that mission. As such, a primary charge of The American Legion is to ensure the sacrifices of America’s military is not forgotten.

The American Legion fought for the dedication of a memorial building in Paris, France, the city where The American Legion was formed, to recognize the service and sacrifices of the members of the American Expeditionary Forces and General of the Armies John J. Pershing. The memorial building was a townhouse in the heart of Paris that would become known as Pershing Hall. This memorial was sanctioned by resolution at our 1927 National Convention. Eight years later, in 1935, Congress authorized funds to perpetuate the memorial and transfer the building to the United States Government under the auspice of The American Legion. In 1991, the building was transferred to the Department of Veterans Affairs (VA) with the intent that it would be used to “administer, operate, develop, and improve Pershing Hall and its site in such manner as to the Secretary determines is in the best interests of the United States, which may include use of Pershing Hall to meet the need of veterans. To meet such needs, the Secretary may establish and operate a regional or other office to disseminate information, respond to inquiries, and otherwise assist veteran and their families in obtaining veterans’ benefits”.<sup>3</sup> Unfortunately, the building was not used in this manner, but instead, the VA leased the building to a boutique hotel on a 99-year long lease.

Through all these actions, it was the hope and wish of The American Legion that Pershing Hall retain its original purpose, as a memorial and focal point to honor the memories and sacrifices of the men who had fought in World War I, and as a location for veterans in the region to gain assistance from the VA. Although The American Legion does not fully agree with this legislation, we do agree with the bill’s sponsor, Representative Coffman, that the VA is not

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<sup>2</sup> <https://www.legion.org/preamble>

<sup>3</sup> <https://www.congress.gov/bill/102nd-congress/house-bill/1047/text>

capable of appropriately maintaining this location while meeting the congressional intent of the 1991 legislation.

Currently, the Pershing Hall building, in the prime Paris neighborhood of the Champs Élysées, contains a luxury hotel and spa, where guests can stay for upwards of \$450 to \$900 a night. The focus and purpose as a place of remembrance seems gone by the wayside. The building is available to veterans' organizations three days a year, but access seems to be difficult to obtain. When The American Legion asked the government to assume control of the building, it was never imagined that Pershing Hall would be used for any purpose other than as a memorial and VA service office in Paris for those who had served in the First World War and subsequent wars.

This legislation would authorize VA to divest itself of the property and transfer the monies resulting from the sale to the American Battle Monuments Commission (ABMC). The legislation would also provide for the transfer of the artifacts and items associated with the building to ABMC.

The preservation of these artifacts and the history they represent is a major concern of The American Legion. The materials deserve to be kept together for the original purpose, to honor and remember General Pershing and those who fought in World War I. The American Legion wants to work with VA or ABMC to “establish permanent American Legion custodianship of the Pershing Hall art, artifacts, furnishings, memorabilia and other items so that they can be interpreted for public display, and protected from damage or disappearance.”<sup>4</sup>

The American Legion has serious concerns with selling Pershing Hall. Currently, the building is in a 99-year long lease with a company that renovated it to become a hotel. The assessed value, according to a report developed by a French appraisal company, values the building *without* the lease at 70 million Euros or 82 million U.S. dollars. However, *with* the current lease in place, the value of the building is appraised at 7 to 8 million Euros. The new owner of the building would be required to honor the 99-year long lease, which lowers the value drastically.

American Legion representatives in Paris have learned that the intent of the hotel owner is to buy the building using “first rights of refusal” at the assessed value of 7 to 8 Euros when the building becomes available for purchase. The owner then wishes to terminate the lease once they have ownership of the building. By doing so, they would automatically own a building worth 82 million dollars. The American Legion has also heard that the intent is to then sell the building, with the new value of 82 million dollars, and open a chain of Pershing Hall hotels around France.

Again, when The American Legion transferred ownership of Pershing Hall to the Federal government, we never expected this building to be used in such fashion. We are disheartened that Pershing Hall is not a military memorial or space for veterans to receive information about VA benefits but instead a boutique hotel with an owner intent on making millions of dollars off the Federal government. We are even more concerned with the blatant disregard to the second or third order effects of selling this building to a private organization.

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<sup>4</sup> <https://archive.legion.org/handle/123456789/5798>

The American Legion believes that Pershing Hall should remain in the ownership of the Federal government. We are displeased as to how VA decided to use the building but also understand that America, its people, and the need for memorials and VA assistance will be around in 99 years once the lease is terminated.

If Congress is willing to wait until the lease has ended so that veterans will have a location to gain assistance, The American Legion is willing to wait as well. To ensure this historical American building is protected, we recommend either transferring this building to ABMC or amending the statute deriving from Public Law No: 102-86 from:

*“administer, operate, develop, and improve Pershing Hall and its site in such manner as to the Secretary determines is in the best interests of the United States, which **may** include use of Pershing Hall to meet the need of veterans. To meet such needs, the Secretary **may** establish and operate a regional or other office to disseminate information, respond to inquiries, and otherwise assist veteran and their families in obtaining veterans’ benefits”*,<sup>5</sup>

to:

*“administer, operate, develop, and improve Pershing Hall and its site in such manner as to the Secretary determines is in the best interests of the United States, which **shall** include use of Pershing Hall to meet the need of veterans. To meet such needs, the Secretary **shall** establish and operate a regional or other office to disseminate information, respond to inquiries, and otherwise assist veteran and their families in obtaining veterans’ benefits”*.

We would also recommend adding a clause that protects the building from sale to a private organization in the future.

The American Legion is grateful to Representative Coffman for his ongoing work with The American Legion and his continued work on behalf of veterans, and respects the fact that he is doing what he feels is right, as a follow up to ensuring the VA medical Center in Aurora Colorado was sufficiently funded, but we cannot support legislation that would sell an American monument to a private company, thereby losing an American historical monument.

We feel that this legislation is a short sighted attempt and a quick fix to a larger issue within VA, and ultimately by selling the building, veterans lose. It is disconcerting and troubling that this site could have drifted so far from its initial intended purpose as a place of remembrance and history. We look forward to working with Congress to find the *best* outcome for this historic building.

Using resolution No. 9, *Transfer Custodianship of Pershing Hall Building and Artifacts to the American Battle Monuments Commission*, which supports legislation to transfer custodianship of the Pershing Hall Building and artifacts from the Department of Veterans Affairs to the American Battle Monuments Commission (ABMC), and ABMC be directed to restore, preserve and display all artifacts from Pershing Hall, including those currently in storage, in a dignified

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<sup>5</sup> <https://www.congress.gov/bill/102nd-congress/house-bill/1047/text>

and respectful manner either in Pershing Hall itself, or in ABMC or other federal government properties. Because H.R. 2773 goes against this resolution, we cannot support.<sup>6</sup>

**The American Legion opposes H.R. 2773.**

### **Conclusion**

The American Legion looks forward to continuing to work closely with VA and this Committee on these important issues and we applaud the Committee for working with VSOs and VA as partners to ensure that The Department of Veterans Affairs is properly structured to meet the needs of the 21st century veteran.

As always, The American Legion thanks this Committee for the opportunity to explain the position of the over 2 million veteran members of this organization. For additional information regarding this testimony, please contact Mr. Derek Fronabarger at The American Legion's Legislative Division at (202) 861-2700 or [dfronabarger@legion.org](mailto:dfronabarger@legion.org).

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<sup>6</sup> The American Legion Resolution No. 9 (2016): [Transfer Custodianship of Pershing Hall Building and Artifacts to the American Battle Monuments Commission](#)