

FEDERAL REAL PROPERTY DISPOSAL ENHANCEMENT
ACT OF 2008

MAY 15, 2008.—Committee to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. WAXMAN, from the Committee on Oversight and Government
Reform, submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 5787]

[Including cost estimate of the Congressional Budget Office]

The Committee on Oversight and Government Reform, to whom
was referred the bill (H.R. 5787) to amend title 40, United States
Code, to enhance authorities with regard to real property that has
yet to be reported excess, and for other purposes, having considered
the same, report favorably thereon with an amendment and rec-
ommend that the bill as amended do pass.

CONTENTS

| | Page |
|--|------|
| Purpose and Summary | 5 |
| Background and Need for Legislation | 5 |
| Legislative History | 6 |
| Section-by-Section | 6 |
| Explanation of Amendments | 6 |
| Committee Consideration | 7 |
| Rollcall Votes | 7 |
| Application of Law to the Legislative Branch | 7 |
| Statement of Oversight Findings and Recommendations of the Committee | 7 |
| Statement of General Performance Goals and Objectives | 7 |
| Constitutional Authority Statement | 7 |
| Federal Advisory Committee Act | 8 |
| Unfunded Mandates Statement | 8 |
| Earmark Identification | 8 |
| Budget Authority and Congressional Budget Office Cost Estimate | 8 |
| Changes in Existing Law Made by the Bill, as Reported | 10 |

Additional Views 17

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Federal Real Property Disposal Enhancement Act of 2008”.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) In January 2003, the Government Accountability Office identified Federal real property as a high-risk area, citing excess property as a long-standing problem.

(2) The magnitude of the problem with excess Federal real property continues to put the government at risk for lost dollars and missed opportunities.

(3) The Administration has stated its goal is to reduce the size of the Federal real property inventory by 5 percent, or \$15 billion, by disposing of unneeded assets by 2015.

(4) The Federal inventory includes many properties that are no longer relevant to agencies’ missions and agencies are spending billions of dollars to maintain these unneeded properties.

(5) The costs of preparing a property for transfer or sale continue to hamper some agencies’ efforts to address their unneeded properties and serve as a disincentive to disposal because, in the short-term, it can be more beneficial economically to maintain a property that is not being used than to dispose of it.

(6) Agencies should give greater attention to right-sizing their real property portfolios.

(b) PURPOSE.—The purpose of this Act is to reduce the Federal inventory of unneeded and costly property.

SEC. 3. DUTIES OF THE GENERAL SERVICES ADMINISTRATION AND EXECUTIVE AGENCIES.

(a) IN GENERAL.—Section 524 of title 40, United States Code, is amended to read as follows:

“§ 524. Duties of the General Services Administration and executive agencies

“(a) DUTIES OF THE GENERAL SERVICES ADMINISTRATION.—

“(1) GUIDANCE.—The Administrator shall issue guidance for the development and implementation of agency real property plans. Such guidance shall include recommendations on—

“(A) how to identify excess properties;

“(B) how to evaluate the costs and benefits involved with disposing of real property;

“(C) how to prioritize disposal decisions based on agency missions and anticipated future need for holdings; and

“(D) how best to dispose of those properties identified as excess to the needs of the agency.

“(2) ANNUAL REPORT.—The Administrator shall submit an annual report, for each of the first 5 years after 2008, to the Committee on Oversight and Government Reform of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate, based on data submitted from all executive agencies, detailing executive agency efforts to reduce their real property assets.

“(3) ASSISTANCE.—The Administrator shall assist executive agencies in the identification and disposal of excess real property.

“(b) DUTIES OF EXECUTIVE AGENCIES.—

“(1) IN GENERAL.—Each executive agency shall—

“(A) maintain adequate inventory controls and accountability systems for property under its control;

“(B) continuously survey property under its control to identify excess property;

“(C) promptly report excess property to the Administrator;

“(D) perform the care and handling of excess property; and

“(E) transfer or dispose of excess property as promptly as possible in accordance with authority delegated and regulations prescribed by the Administrator.

“(2) SPECIFIC REQUIREMENTS WITH RESPECT TO REAL PROPERTY.—With respect to real property, each executive agency shall—

“(A) develop and implement a real property plan in order to identify properties to declare as excess using the guidance issued under subsection (a)(1);

“(B) identify and categorize all real property owned, leased, or otherwise managed by the agency;

“(C) establish adequate goals and incentives that lead the agency to reduce excess real property in its inventory;

“(D) when appropriate, use the authorities in section 572(a)(2)(B) of this title in order to identify and prepare real property to be reported as excess.

“(3) ADDITIONAL REQUIREMENTS.—Each executive agency, as far as practicable, shall—

“(A) reassign property to another activity within the agency when the property is no longer required for the purposes of the appropriation used to make the purchase;

“(B) transfer excess property under its control to other Federal agencies and to organizations specified in section 321(c)(2) of this title; and

“(C) obtain excess properties from other Federal agencies to meet mission needs before acquiring non-Federal property.”

(b) CLERICAL AMENDMENT.—The item relating to section 524 in the table of sections at the beginning of chapter 5 of such title is amended to read as follows:

“524. Duties of the General Services Administration and executive agencies.”.

SEC. 4. ENHANCED AUTHORITIES WITH REGARD TO PREPARING PROPERTIES TO BE REPORTED AS EXCESS.

Section 572(a)(2) of title 40, United States Code, is amended—

(1) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(2) by inserting after subparagraph (A) the following new subparagraph:

“(B) ADDITIONAL AUTHORITY.—(i) From the fund described in paragraph (1), subject to clause (iv), the Administrator may obligate an amount to pay the direct and indirect costs related to identifying and preparing properties to be reported excess by another agency.

“(ii) The General Services Administration may be reimbursed from the proceeds of the sale of such properties for such costs.

“(iii) Net proceeds shall be dispersed pursuant to section 571 of this title.

“(iv) The authority under clause (i) to obligate funds to prepare properties to be reported excess does not include the authority to convey such properties by sale, lease, exchange, or otherwise, including through leaseback arrangements.

“(v) Nothing in this subparagraph is intended to affect subparagraph (D).”.

SEC. 5. ENHANCED AUTHORITIES WITH REGARD TO REVERTED REAL PROPERTY.

(a) **AUTHORITY TO PAY EXPENSES RELATED TO REVERTED REAL PROPERTY.**—Section 572(a)(2)(A) of title 40, United States Code, is amended by adding at the end the following:

“(iv) The direct and indirect costs associated with the reversion, custody, and disposal of reverted real property.”.

(b) **REQUIREMENTS RELATED TO SALES OF REVERTED PROPERTY UNDER SECTION 550.**—Section 550(b)(1) of title 40, United States Code, is amended—

(1) by inserting “(A)” after “(1) IN GENERAL.—”; and

(2) by adding at the end the following: “If the official, in consultation with the Administrator, recommends reversion of the property, the Administrator shall take control of such property, and, subject to subparagraph (B), sell it at fair market value for cash and not by lease, exchange, or leaseback arrangements.

“(B) Prior to sale, the Administrator shall make such property available to State and local governments and certain non-profit institutions or organizations pursuant to this section and sections 553 and 554 of this title.”.

(c) **REQUIREMENTS RELATED TO SALES OF REVERTED PROPERTY UNDER SECTION 553.**—Section 553(e) of title 40, United States Code, is amended—

(1) by inserting “(1)” after “THIS SECTION.—”; and

(2) by adding at the end the following: “If the Administrator determines that reversion of the property is necessary to enforce compliance with the terms of the conveyance, the Administrator shall take control of such property and, subject to paragraph (2), sell it at fair market value for cash and not by lease, exchange, or leaseback arrangements.

“(2) Prior to sale, the Administrator shall make such property available to State and local governments and certain non-profit institutions or organizations pursuant to this section and sections 550 and 554 of this title.”.

(d) **REQUIREMENTS RELATED TO SALES OF REVERTED PROPERTY UNDER SECTION 554.**—Section 554(f) of title 40, United States Code, is amended—

(1) by inserting “(1)” after “THIS SECTION.—”; and

(2) by adding at the end the following: “If the Secretary, in consultation with the Administrator, recommends reversion of the property, the Administrator shall take control of such property and, subject to paragraph (2), sell it at fair market value for cash and not by lease, exchange, or leaseback arrangements.

“(2) Prior to sale, the Administrator shall make such property available to State and local governments and certain non-profit institutions or organizations pursuant to this section and sections 550 and 553 of this title.”.

SEC. 6. AGENCY RETENTION OF PROCEEDS.

The text of section 571 of title 40, United States Code, is amended to read as follows:

“(a) **DEPOSIT OF PROCEEDS.**—Proceeds described in subsection (d) shall be deposited into the appropriate real property account of the agency that had custody and accountability for the real property. Such funds shall be expended only as authorized in annual appropriations Acts and only for activities as described in section 524(b) of this title and disposal activities, including paying costs incurred by the General Services Administration for any disposal-related activity authorized by this title. Proceeds shall not be expended for activities or projects subject to the requirements of section 3307 of this title.

“(b) **EFFECT ON OTHER SECTIONS.**—Nothing in this section is intended to affect section 572(b) or 574 of this title.

“(c) **DISPOSAL AGENCY FOR REVERTED PROPERTY.**—For the purposes of this section, the General Services Administration, as the disposal agency, shall be treated as the agency with custody and accountability for properties which revert to the United States under sections 550, 553, and 554 of this title.

“(d) **PROCEEDS.**—The proceeds referred to in subsection (a) are proceeds under this chapter from a—

“(1) transfer of excess property to a federal agency for agency use; or

“(2) sale, lease, or other disposition of surplus property.”.

PURPOSE AND SUMMARY

H.R. 5787, the Federal Real Property Disposal Act, was introduced by Reps. Dennis Moore and John J. Duncan, Jr., on April 14, 2008. The bill allows all agencies to retain net proceeds from the sale of surplus property, authorizes the General Services Administration (GSA) to assist agencies in preparing properties to be reported excess, and provides additional authority to GSA to dispose of property that has reverted back to the federal government from previous sales.

BACKGROUND AND NEED FOR LEGISLATION

Under existing law, funds from the sale of surplus real and related personal property by GSA are placed in a fund within the Treasury. From this fund, the Administrator for General Services deducts payments for some of the costs associated with selling the property, including appraisal, auctioning, surveying, advertising, and environmental inspection. In a fiscal year, these costs cannot exceed 12% of the proceeds from the sales of the property.¹

The agencies controlling the property must pay the costs of actually preparing the property for sale, including environmental clean-up, demolition, and historical preservation. General Accounting Office has reported that these costs discourage agencies from disposing of surplus property.² The Office of Management and Budget (OMB) agrees with this assessment. In testimony before the Subcommittee on Government Management, Organization, and Procurement, Deputy Comptroller Daniel Werfel stated:

Many agencies do not have authority to retain proceeds from the sale of real property assets, nor do they receive reimbursement for cost incurred to sell a property, such as advertising and cleanup. Consequently, agencies often lack the resources needed to sell or dispose of properties and are unable to avoid annual costs that are incurred when properties are maintained past their point of usefulness. Allowing agencies to be reimbursed for selling costs and to retain sale proceeds would provide agencies with the funds necessary to cover upfront costs associated with disposing of unneeded assets.³

According to OMB, federal agencies “reported 18,393 excess assets with a replacement value of approximately \$13.8 billion. Agencies also reported 3,409 assets as surplus with a replacement value of approximately \$3.9 billion.”⁴

H.R. 5787, the Federal Real Property Disposal Enhancement Act, allows agencies to retain all of the proceeds from the sale of surplus property instead of depositing them in the Treasury. The agencies may only use these funds for real property disposal activi-

¹ 40 U.S.C. §572(a). Section 572(b) governs real property under the control of a military department, which follows different procedures.

² U.S. Government Accountability Office, Statement of Mark L. Goldstein, Director, Physical Infrastructure, Federal Real Property: An Update on High-Risk Issues (May 24, 2007) (GAO-07-895T).

³ Subcommittee on Government Management, Organization, and Procurement, Testimony of Acting Comptroller Daniel Werfel, Hearing on Pending Legislation, 110th Cong. (Apr. 15, 2008).

⁴ Executive Office of the President, Office of Management and Budget, Response to Section 408 of Public Law 109-396 (June 15, 2007) (originally cited in Congressional Research Service, Surplus Federal Property (Nov. 14, 2007)).

ties, subject to appropriations. The bill also allows GSA to use its funds to prepare properties to be reported excess. The bill does not make any changes to existing authorities to transfer unused property to other federal agencies or make surplus property available to other entities for designated public uses.

LEGISLATIVE HISTORY

H.R. 5787, the Federal Real Property Disposal Act, was introduced by Reps. Dennis Moore and John J. Duncan, Jr., on April 14, 2008, and was referred to the Committee on Oversight and Government Reform.

The Subcommittee on Government Management, Organization, and Procurement held a hearing on H.R. 5787 on April 15, 2008. The witnesses were Daniel Werfel, Acting Comptroller, Federal Financial Management, Office of Management and Budget; and Stan Kaczmarczyk, Acting Deputy Associate Administrator, Office of Governmentwide Policy, General Services Administration.

The Committee held a business meeting to consider H.R. 5787 on May 1, 2008, and ordered the bill, as amended, to be favorably reported by voice vote.

SECTION-BY-SECTION

Section 1: Short title

The short title of the bill is the Federal Real Property Disposal Enhancement Act of 2008.

Section 2: Enhanced authorities with regard to preparing properties to be reported as excess

This section authorizes the Administrator of GSA to obligate funds to pay the direct and indirect costs of preparing properties controlled by other federal agencies to be declared excess. It also allows GSA to be reimbursed for such costs from the proceeds of the sale of the property.

Section 3: Enhanced authorities with regard to reverted real property

This section modifies provisions of existing law to make clear that when a property has been transferred to a nonprofit organization or a state or local government for a public purpose, and that public purpose is no longer being met, the property must revert to the federal government, which must dispose of it.

Sec. 4: Agency retention of proceeds

This section permits federal agencies to retain the proceeds from the sale of federal surplus properties. These proceeds will be used for disposal activities such as developing and implementing a plan to identify and declare properties excess, appraisals, utilization studies, and lifecycle planning. These proceeds will not be used for any project subject to section 3307 of title 40.

EXPLANATION OF AMENDMENTS

Three amendments to the bill were offered during the Committee's consideration of the bill. Rep. Waxman offered an amendment

in the nature of a substitute to the bill that added findings and purposes to the bill. It also added a requirement that the Administrator issue guidance for the development and implementation of agency real property plans and for agencies to maintain adequate inventory controls for property, promptly report excess property to the Administrator, and develop real property plans. The amendment was adopted by the Committee.

Rep. Davis offered two amendments to the bill, neither of which was adopted. The first would have established a pilot program at OMB for an expedited property disposal process. The second, which was offered and withdrawn, would have permitted GSA to use its funds to renovate property it is currently using to make changes to meet needs of the Department of Defense, and to transfer that property to the Department of Defense.

COMMITTEE CONSIDERATION

On Thursday, May 1, 2008, the Committee met in open session and favorably ordered H.R. 5787 to be reported, as amended, to the House by a voice vote.

ROLLCALL VOTES

No rollcall votes were held.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch where the bill relates to terms and conditions of employment or access to public services and accommodations. The bill does not relate to employment or access to public services and accommodations.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report including the finding that unneeded buildings are in the federal inventory.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee's performance goals and objectives are reflected in the descriptive portions of this report, including improving the efficient disposal of surplus federal property.

CONSTITUTIONAL AUTHORITY STATEMENT

Under clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee must include a statement citing the specific powers granted to Congress to enact the law proposed by H.R. 5787. Article I, Section 8, Clause 18 of the Constitution of the United States grants the Congress the power to enact this law.

FEDERAL ADVISORY COMMITTEE ACT

The Committee finds that the legislation does not establish or authorize the establishment of an advisory committee within the definition of 5 U.S.C. App., Section 5(b).

UNFUNDED MANDATES STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandates Reform Act, P.L. 104-4) requires a statement on whether the provisions of the report include unfunded mandates. In compliance with this requirement the Committee has received a letter from the Congressional Budget Office included herein.

EARMARK IDENTIFICATION

H.R. 5787 does not include any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI.

COMMITTEE ESTIMATE

Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs that would be incurred in carrying out H.R. 5787. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act.

BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST
ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 5787 from the Director of the Congressional Budget Office:

MAY 8, 2008.

Hon. HENRY A. WAXMAN,
*Chairman, Committee on Oversight and Government Reform, House
of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 5787, the Federal Real Property Disposal Enhancement Act of 2008.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Pickford.

Sincerely,

PETER R. ORSZAG.

Enclosure.

H.R. 5787—Federal Real Property Disposal Enhancement Act of 2008

Summary: H.R. 5787 would amend the Federal Property and Administrative Services Act (Property Act) to give the General Services Administration (GSA) new authorities to help facilitate the disposal of federal property. CBO estimates that enacting the bill would reduce net direct spending by \$15 million over the 2009–2018 period. The bill would not affect revenues.

H.R. 5787 contains no intergovernmental or private–sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 5787 is shown in the following table. The costs of this legislation fall within budget function 800 (general government).

| | By fiscal year, in millions of dollars— | | | | | | | | | | | |
|----------------------------------|---|------|------|------|------|------|------|------|------|------|---------------|---------------|
| | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2009– 2013 | 2009– 2018 |
| DIRECT SPENDING | | | | | | | | | | | | |
| Estimated Budget Authority | * | –1 | –1 | –1 | –2 | –2 | –2 | –2 | –2 | –2 | –5 | –15 |
| Estimated Outlays | * | –1 | –1 | –1 | –2 | –2 | –2 | –2 | –2 | –2 | –5 | –15 |

Note: * = less than \$500,000.

Basis of estimate: Enacting H.R. 5787 would increase both direct spending and offsetting receipts (a credit against direct spending) by making it easier for federal agencies to dispose of federal property. For this estimate, CBO assumes that the bill will be enacted near the end of 2008.

Property disposal under current law

Under the Property Act, GSA manages the disposal of surplus federal property for most agencies. That act requires GSA to first offer excess property to other federal agencies, then, at discounts of up to 100 percent, to state or local governments and nonprofit organizations before selling the property through a competitive bidding process. The act also allows GSA to retain 12 percent of the proceeds from such sales to cover its direct costs, such as auction fees and appraisals. (In fiscal year 2007, GSA used about \$4 million for those purposes.) The remaining net proceeds (currently about \$20 million per year) are deposited in the Treasury as offsetting receipts.

The current federal property program generates only modest proceeds for several reasons. First, much of the surplus property disposed of under current law is conveyed without reimbursement (under authorities such as homeless conveyances). Second, property sales, and thus receipts, are limited because many federal agencies lack appropriated funds to initiate the disposal process. In addition, some agencies have little incentive to maximize the income they receive from property sales because they cannot retain any of those receipts to expedite such transactions or for other activities. (Some agencies, however, can retain the proceeds of enhanced–use leases for property improvements.)

Property disposal under H.R. 5787

H.R. 5787 would address some of the problems with the current disposal process for federal property by allowing GSA to retain and use additional proceeds from property sales to help pay for the direct and indirect costs of other agencies' disposal activities. Activities include additional market research, cost/benefit analyses, and other activities to identify and prepare properties for disposal that have not yet been declared excess. Net proceeds from sales under the bill would be available, subject to future appropriation, for other property management activities.

Estimated impact on the Federal Government: Based on information from GSA and some landholding agencies, CBO estimates that enacting H.R. 5787 would increase direct spending, beginning in 2009, by about \$2 million annually as GSA uses proceeds from existing property sales to help other agencies identify and prepare new properties for disposal. Additional receipts would be generated as those new properties are sold, and those receipts (estimated to total about \$4 million annually) would eventually offset the additional costs. Because proceeds from the new sales would lag spending by several months, the net impact of the bill in 2009 would be negligible. CBO estimates that offsetting receipts earned from additional sales under the legislation would total about \$35 million over the 2009–2018 period, additional spending would total an estimated \$20 million.

CBO expects that GSA would work with agencies using the new authorities provided in this bill to make more properties available for disposal than they could under existing law. The impact would be modest, however, because we assume that many of the largest federal agencies that manage significant numbers of properties would likely opt to continue using their enhanced—use leasing authorities rather than GSA's services to leverage value from underused real property. In addition, any new properties that would be made available for disposal under the bill would still have to be evaluated for possible public benefit conveyances—for shelter for the homeless, or for educational or recreational uses—before those properties could be offered for sale. Consequently, CBO expects that the number of properties sold for cash under this bill would be relatively small.

Intergovernmental and private-sector impact: H.R. 5787 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. The bill would benefit state, local, and tribal governments by requiring federal agencies to make additional property available to those entities before they offer it for sale.

Estimate prepared by: Federal costs: Matthew Pickford; impact on state, local, and tribal governments: Elizabeth Cove; impact on the private sector: Paige Piper/Bach.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omit-

ted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 40, UNITED STATES CODE

* * * * *

CHAPTER 5—PROPERTY MANAGEMENT

SUBCHAPTER I—PROCUREMENT AND WAREHOUSING

Sec.

501. Services for executive agencies.

* * * * *

[524. Duties of executive agencies.]

524. *Duties of the General Services Administration and executive agencies.*

* * * * *

SUBCHAPTER II—USE OF PROPERTY

* * * * *

[§ 524. Duties of executive agencies

[(a) REQUIRED.—Each executive agency shall—

[(1) maintain adequate inventory controls and accountability systems for property under its control;

[(2) continuously survey property under its control to identify excess property;

[(3) promptly report excess property to the Administrator of General Services;

[(4) perform the care and handling of excess property; and

[(5) transfer or dispose of excess property as promptly as possible in accordance with authority delegated and regulations prescribed by the Administrator.]

[(b) REQUIRED AS FAR AS PRACTICABLE.—Each executive agency, as far as practicable, shall—

[(1) reassign property to another activity within the agency when the property is no longer required for the purposes of the appropriation used to make the purchase;

[(2) transfer excess property under its control to other federal agencies and to organizations specified in section 321(c)(2) of this title; and

[(3) obtain excess property from other federal agencies.]

§ 524. Duties of the General Services Administration and executive agencies

(a) DUTIES OF THE GENERAL SERVICES ADMINISTRATION.—

(1) GUIDANCE.—The Administrator shall issue guidance for the development and implementation of agency real property plans. Such guidance shall include recommendations on—

(A) how to identify excess properties;

(B) how to evaluate the costs and benefits involved with disposing of real property;

(C) how to prioritize disposal decisions based on agency missions and anticipated future need for holdings; and

(D) how best to dispose of those properties identified as excess to the needs of the agency.

(2) *ANNUAL REPORT.*—The Administrator shall submit an annual report, for each of the first 5 years after 2008, to the Committee on Oversight and Government Reform of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate, based on data submitted from all executive agencies, detailing executive agency efforts to reduce their real property assets.

(3) *ASSISTANCE.*—The Administrator shall assist executive agencies in the identification and disposal of excess real property.

(b) *DUTIES OF EXECUTIVE AGENCIES.*—

(1) *IN GENERAL.*—Each executive agency shall—

(A) maintain adequate inventory controls and accountability systems for property under its control;

(B) continuously survey property under its control to identify excess property;

(C) promptly report excess property to the Administrator;

(D) perform the care and handling of excess property; and

(E) transfer or dispose of excess property as promptly as possible in accordance with authority delegated and regulations prescribed by the Administrator.

(2) *SPECIFIC REQUIREMENTS WITH RESPECT TO REAL PROPERTY.*—With respect to real property, each executive agency shall—

(A) develop and implement a real property plan in order to identify properties to declare as excess using the guidance issued under subsection (a)(1);

(B) identify and categorize all real property owned, leased, or otherwise managed by the agency;

(C) establish adequate goals and incentives that lead the agency to reduce excess real property in its inventory;

(D) when appropriate, use the authorities in section 572(a)(2)(B) of this title in order to identify and prepare real property to be reported as excess.

(3) *ADDITIONAL REQUIREMENTS.*—Each executive agency, as far as practicable, shall—

(A) reassign property to another activity within the agency when the property is no longer required for the purposes of the appropriation used to make the purchase;

(B) transfer excess property under its control to other Federal agencies and to organizations specified in section 321(c)(2) of this title; and

(C) obtain excess properties from other Federal agencies to meet mission needs before acquiring non-Federal property.

* * * * *

SUBCHAPTER III—DISPOSING OF PROPERTY

* * * * *

§ 550. Disposal of real property for certain purposes

(a) * * *

(b) ENFORCEMENT AND REVISION OF INSTRUMENTS TRANSFERRING PROPERTY UNDER THIS SECTION.—

(1) IN GENERAL.—(A) Subject to disapproval by the Administrator of General Services within 30 days after notice of a proposed action to be taken under this section, except for personal property transferred pursuant to section 549 of this title, the official specified in paragraph (2) shall determine and enforce compliance with the terms, conditions, reservations, and restrictions contained in an instrument by which a transfer under this section is made. The official shall reform, correct, or amend the instrument if necessary to correct the instrument or to conform the transfer to the requirements of law. The official shall grant a release from any term, condition, reservation or restriction contained in the instrument, and shall convey, quitclaim, or release to the transferee (or other eligible user) any right or interest reserved to the Federal Government by the instrument, if the official determines that the property no longer serves the purpose for which it was transferred or that a release, conveyance, or quitclaim deed will not prevent accomplishment of that purpose. The release, conveyance, or quitclaim deed may be made subject to terms and conditions that the official considers necessary to protect or advance the interests of the Government. *If the official, in consultation with the Administrator, recommends reversion of the property, the Administrator shall take control of such property, and, subject to subparagraph (B), sell it at fair market value for cash and not by lease, exchange, or leaseback arrangements.*

(B) Prior to sale, the Administrator shall make such property available to State and local governments and certain non-profit institutions or organizations pursuant to this section and sections 553 and 554 of this title.

* * * * *

§ 553. Property for correctional facility, law enforcement, and emergency management response purposes

(a) * * *

* * * * *

(e) ENFORCEMENT AND REVISION OF INSTRUMENTS TRANSFERRING PROPERTY UNDER THIS SECTION.—(1) The Administrator shall determine and enforce compliance with the terms, conditions, reservations, and restrictions contained in an instrument by which a transfer or conveyance under this section is made. The Administrator shall reform, correct, or amend the instrument if necessary to correct the instrument or to conform the transfer to the requirements of law. The Administrator shall grant a release from any term, condition, reservation or restriction contained in the instrument, and shall convey, quitclaim, or release to the transferee (or other eligible user) any right or interest reserved to the Government by the instrument, if the Administrator determines that the property no longer serves the purpose for which it was transferred or that a release, conveyance, or quitclaim deed will not prevent accomplishment of that purpose. The release, conveyance, or quitclaim deed may be made subject to terms and conditions that the Administrator considers necessary to protect or advance the inter-

ests of the Government. *If the Administrator determines that reversion of the property is necessary to enforce compliance with the terms of the conveyance, the Administrator shall take control of such property and, subject to paragraph (2), sell it at fair market value for cash and not by lease, exchange, or leaseback arrangements.*

(2) Prior to sale, the Administrator shall make such property available to State and local governments and certain non-profit institutions or organizations pursuant to this section and sections 550 and 554 of this title.

§ 554. Property for development or operation of a port facility

(a) * * *

* * * * *

(f) ENFORCEMENT AND REVISION OF INSTRUMENTS TRANSFERRING PROPERTY UNDER THIS SECTION.—(1) The Secretary of Transportation shall determine and enforce compliance with the terms, conditions, reservations, and restrictions contained in an instrument by which a transfer or conveyance under this section is made. The Secretary shall reform, correct, or amend the instrument if necessary to correct the instrument or to conform the transfer to the requirements of law. The Secretary shall grant a release from any term, condition, reservation or restriction contained in the instrument, and shall convey, quitclaim, or release to the grantee any right or interest reserved to the Government by the instrument, if the Secretary determines that the property no longer serves the purpose for which it was transferred or that a release, conveyance, or quitclaim deed will not prevent accomplishment of that purpose. The release, conveyance, or quitclaim deed may be made subject to terms and conditions that the Secretary considers necessary to protect or advance the interests of the Government. *If the Secretary, in consultation with the Administrator, recommends reversion of the property, the Administrator shall take control of such property and, subject to paragraph (2), sell it at fair market value for cash and not by lease, exchange, or leaseback arrangements.*

(2) Prior to sale, the Administrator shall make such property available to State and local governments and certain non-profit institutions or organizations pursuant to this section and sections 550 and 553 of this title.

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SUBCHAPTER IV—PROCEEDS FROM SALE OR TRANSFER

§ 571. General rules for deposit and use of proceeds

[(a) DEPOSIT IN TREASURY AS MISCELLANEOUS RECEIPTS.—

[(1) IN GENERAL.—Except as otherwise provided in this subchapter, proceeds described in paragraph (2) shall be deposited in the Treasury as miscellaneous receipts.

[(2) PROCEEDS.—The proceeds referred to in paragraph (1) are proceeds under this chapter from a—

[(A) transfer of excess property to a federal agency for agency use; or

[(B) sale, lease, or other disposition of surplus property.

[(b) PAYMENT OF EXPENSES OF SALE BEFORE DEPOSIT.—Subject to regulations under this subtitle, the expenses of the sale of old material, condemned stores, supplies, or other public property may be paid from the proceeds of sale so that only the net proceeds are deposited in the Treasury. This subsection applies whether proceeds are deposited as miscellaneous receipts or to the credit of an appropriation as authorized by law.]

(a) *DEPOSIT OF PROCEEDS.*—*Proceeds described in subsection (d) shall be deposited into the appropriate real property account of the agency that had custody and accountability for the real property. Such funds shall be expended only as authorized in annual appropriations Acts and only for activities as described in section 524(b) of this title and disposal activities, including paying costs incurred by the General Services Administration for any disposal-related activity authorized by this title. Proceeds shall not be expended for activities or projects subject to the requirements of section 3307 of this title.*

(b) *EFFECT ON OTHER SECTIONS.*—*Nothing in this section is intended to affect section 572(b) or 574 of this title.*

(c) *DISPOSAL AGENCY FOR REVERTED PROPERTY.*—*For the purposes of this section, the General Services Administration, as the disposal agency, shall be treated as the agency with custody and accountability for properties which revert to the United States under sections 550, 553, and 554 of this title.*

(d) *PROCEEDS.*—*The proceeds referred to in subsection (a) are proceeds under this chapter from a—*

- (1) *transfer of excess property to a federal agency for agency use; or*
- (2) *sale, lease, or other disposition of surplus property.*

§ 572. Real property

(a) **IN GENERAL.**—

(1) * * *

(2) **PAYMENT OF EXPENSES FROM THE FUND.**—

(A) **AUTHORITY.**—From the fund described in paragraph (1), the Administrator may obligate an amount to pay the following direct expenses incurred for the use of excess property and the disposal of surplus property under this subtitle:

(i) * * *

* * * * *

(iv) *The direct and indirect costs associated with the reversion, custody, and disposal of reverted real property.*

(B) **ADDITIONAL AUTHORITY.**—(i) *From the fund described in paragraph (1), subject to clause (iv), the Administrator may obligate an amount to pay the direct and indirect costs related to identifying and preparing properties to be reported excess by another agency.*

(ii) *The General Services Administration may be reimbursed from the proceeds of the sale of such properties for such costs.*

(iii) *Net proceeds shall be dispersed pursuant to section 571 of this title.*

(iv) The authority under clause (i) to obligate funds to prepare properties to be reported excess does not include the authority to convey such properties by sale, lease, exchange, or otherwise, including through leaseback arrangements.

(v) Nothing in this subparagraph is intended to affect subparagraph (D).

[(B)] (C) LIMITATIONS.—

(i) * * *

* * * * *

[(C)] (D) DIRECT PAYMENT OR REIMBURSEMENT.—An amount obligated under this paragraph may be used to pay an expense directly or to reimburse a fund or appropriation that initially paid the expense.

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ADDITIONAL VIEWS OF RANKING MEMBER TOM DAVIS

The federal government is the largest landholder in the country. As such, it is essential for the federal government to manage its properties as efficiently and effectively as possible.

More importantly, property which is no longer of use to the federal government should be removed from the inventory. Unfortunately over the years, federal property disposal processes have become increasingly cumbersome and unwieldy, and agencies often decide it's easier to sit on a property than try to get rid of it.

In fact, OMB estimates a backlog of more than 21,000 in properties in need of maintenance and repair, carrying a price tag of more than \$18 billion.

When I chaired this Committee I spent a considerable amount of time working to reform the federal real property disposal system. The proposals we put forth—which were approved by this Committee—were substantive proposals aimed at providing real reform.

While I appreciate Representative Moore's efforts in this legislation, I am concerned this proposal does not go far enough in reforming our federal property laws.

I offered two amendments during Committee consideration of this legislation, neither of which was included in the reported version of the bill.

The first amendment would have added to Representative Moore's proposal the Federal Real Property Disposal Pilot Program which this Committee approved by unanimous consent in 2005.

The second amendment I offered would have given GSA some additional authority with regard to underutilized federal properties which could be better put to use by the Department of Defense to help local communities who are trying to absorb an increase in federal presence resulting from a BRAC-related realignment.

I believe both of these amendments would have strengthened the underlying proposal and I look forward to working with the majority to include these provisions as the legislation moves forward.

TOM DAVIS.

