

CIVILIAN PROPERTY REALIGNMENT ACT

FEBRUARY 1, 2012.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. MICA, from the Committee on Transportation and
Infrastructure, submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 1734]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom
was referred the bill (H.R. 1734) to decrease the deficit by realign-
ing, consolidating, selling, disposing, and improving the efficiency
of Federal buildings and other civilian real property, and for other
purposes, having considered the same, report favorably thereon
with an amendment and recommend that the bill as amended do
pass.

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AMENDMENT

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 “Civilian Property Realignment Act” or “CPRA”.

SEC. 2. PURPOSES.

The purposes of this Act are—

- (1) to consolidate the footprint of Federal buildings and facilities;
- (2) to maximize the utilization rate of Federal buildings and facilities;
- (3) to reduce the reliance on leased space;
- (4) to sell or redevelop high value assets that are underutilized to obtain the highest and best value for the taxpayer and maximize the return to the taxpayer;
- (5) to reduce the operating and maintenance costs of Federal civilian real properties through the realignment of real properties by consolidating, co-locating, and reconfiguring space, and other operational efficiencies;
- (6) to reduce redundancy, overlap, and costs associated with field offices;
- (7) to create incentives for Federal agencies to achieve greater efficiency in their inventories of civilian real property;
- (8) to facilitate and expedite the sale or disposal of unneeded civilian properties; and
- (9) to assist Federal agencies in achieving the Government’s sustainability goals by reducing excess space, inventory, and energy consumption, as well as by leveraging new technologies.

SEC. 3. DEFINITIONS.

In this Act, unless otherwise expressly stated, the following definitions apply:

(1) FEDERAL CIVILIAN REAL PROPERTY AND CIVILIAN REAL PROPERTY.—

(A) PROPERTY.—The terms “Federal civilian real property” and “civilian real property” refer to Federal real property assets, including public buildings as defined in section 3301 of title 40, United States Code, occupied and improved grounds, leased space, or other physical structures under the custody and control of any Federal agency.

(B) FURTHER EXCLUSIONS.—Subparagraph (A) shall not be construed as including any of the following types of property:

- (i) A base, camp, post, station, yard, center, homeport facility for any ship, or any activity under the jurisdiction of the Department of Defense or Coast Guard.
- (ii) Properties that are excluded for reasons of national security by the Director of the Office of Management and Budget.
- (iii) Properties that are excepted from the definition of “property” under section 102(9) of title 40, United States Code.
- (iv) Indian and Native Eskimo properties including—
 - (I) any property within the limits of any Indian reservation to which the United States owns title for the benefit of an Indian tribe; and
 - (II) any property title which is held in trust by the United States for the benefit of any Indian tribe or individual or held by an Indian tribe or individual subject to restriction by the United States against alienation.
- (v) Properties operated and maintained by the Tennessee Valley Authority pursuant to the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831, et seq.).
- (vi) Postal properties owned by the United States Postal Service, except that the United States Postal Service shall submit to the Commission and the Commission shall consider, pursuant to section 11, postal properties suitable for co-location with other Federal agency field offices.

(vii) Properties used in connection with Federal programs for agricultural, recreational, and conservation purposes, including research in connection with the programs.

(viii) Properties used in connection with river, harbor, flood control, reclamation, or power projects.

(2) **FEDERAL AGENCY.**—The term “Federal agency” means an executive department or independent establishment in the executive branch of the Government, and a wholly owned Government corporation.

(3) **ADMINISTRATOR.**—The term “Administrator” means the Administrator of General Services.

(4) **COMMISSION.**—The term “Commission” means the Civilian Property Realignment Commission.

(5) **OMB.**—The term “OMB” means the Office of Management and Budget.

(6) **FIELD OFFICE.**—the term “field office” means any Federal office that is not the Headquarters office location for the Federal agency.

SEC. 4. COMMISSION.

(a) **ESTABLISHMENT.**—There is established an independent commission to be known as the Civilian Property Realignment Commission, referred to in this Act as the “Commission”.

(b) **DUTIES.**—The Commission shall carry out the duties as specified in this Act.

(c) **MEMBERSHIP.**—

(1) **IN GENERAL.**—The Commission shall be composed of a chairman appointed by the President, by and with the advice and consent of the Senate, and 8 members appointed by the President.

(2) **APPOINTMENTS.**—In selecting individuals for appointments to the Commission, the President shall consult with—

(A) the Speaker of the House of Representatives concerning the appointment of 2 members;

(B) the majority leader of the Senate concerning the appointment of 2 members;

(C) the minority leader of the House of Representatives concerning the appointment of 1 member; and

(D) the minority leader of the Senate concerning the appointment of 1 member.

(3) **TERMS.**—The term for each member of the Commission shall be 6 years.

(4) **VACANCIES.**—Vacancies shall be filled in the same manner as the original appointment.

(5) **QUALIFICATIONS.**—In selecting individuals for appointment to the Commission, the President shall ensure the Commission contains individuals with expertise representative of the following:

(A) Commercial real estate and redevelopment.

(B) Government management or operations.

(C) Community development, including transportation and planning.

(D) Historic preservation.

SEC. 5. COMMISSION MEETINGS.

(a) **OPEN MEETINGS.**—Each meeting of the Commission, other than meetings in which classified information is to be discussed, shall be open to the public. Any open meeting shall be announced in the Federal Register and the Federal website established by the Commission at least 14 calendar days in advance of a meeting. For all public meetings, the Commission shall release an agenda and a listing of materials relevant to the topics to be discussed.

(b) **QUORUM AND MEETINGS.**—Seven Commission members shall constitute a quorum for the purposes of conducting business and 3 or more Commission members shall constitute a meeting of the Commission.

(c) **TRANSPARENCY OF INFORMATION.**—All the proceedings, information, and deliberations of the Commission shall be open, upon request, to the chairperson and the ranking minority party member, and their respective subcommittee chairperson and ranking minority party member, of—

(1) the Committee on Transportation and Infrastructure of the House of Representatives;

(2) the Committee on Oversight and Government Reform of the House of Representatives;

(3) the Committee on Homeland Security and Governmental Affairs of the Senate;

(4) the Committee on Environmental and Public Works of the Senate; and

(5) the committees on Appropriations of the House of Representatives and the Senate.

(d) GOVERNMENT ACCOUNTABILITY OFFICE.—All proceedings, information, and deliberations of the Commission shall be open, upon request, to the Comptroller General of the United States.

SEC. 6. COMPENSATION AND TRAVEL EXPENSES.

(a) COMPENSATION.—

(1) RATE OF PAY FOR MEMBERS.—Each member, other than the Chairperson, shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the actual performance of duties vested in the Commission.

(2) RATE OF PAY FOR CHAIRPERSON.—The chairperson shall be paid for each day referred to in paragraph (1) at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level III of the Executive Schedule under section 5314, of title 5, United States Code.

(b) TRAVEL.—Members shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

SEC. 7. EXECUTIVE DIRECTOR.

(a) APPOINTMENT.—The Commission shall appoint an Executive Director and may disregard the provisions of title 5, United States Code, governing appointments in the competitive service.

(b) RATE OF PAY FOR DIRECTOR.—The Executive Director shall be paid at the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

SEC. 8. STAFF.

(a) ADDITIONAL PERSONNEL.—Subject to subsection (b), the Executive Director, with the approval of the Commission, may appoint and fix the pay of additional personnel.

(b) DETAIL EMPLOYEES FROM OTHER AGENCIES.—Upon request of the Executive Director, the head of any Federal agency may detail any of the personnel of that agency to the Commission to assist the Commission in carrying out its duties under this Act.

(c) QUALIFICATIONS.—Appointments shall be made with consideration of a balance of expertise consistent with the qualifications of representatives described in section 4(c)(5).

SEC. 9. CONTRACTING AUTHORITY.

(a) EXPERTS AND CONSULTANTS.—The Commission may procure by contract, to the extent funds are available, the temporary or intermittent services of experts and consultants pursuant to section 3109 of title 5, United States Code.

(b) SPACE.—The Administrator, in consultation with the Commission, shall identify suitable excess space within the Federal space inventory to house the operations of the Commission. If no such space is available, the Commission may, notwithstanding section 20, lease space to the extent funds are available.

(c) PERSONAL PROPERTY.—The Commission may acquire personal property to the extent funds are available.

(d) RECEIPT AND SALE OF PROPERTY.—The Commission may take custody, control, and administrative jurisdiction over Federal property pursuant to section 12(b) and is authorized to sell such property for no less than fair market value.

(e) USE OF SMALL BUSINESSES.—In exercising its authorities under this section and section 12, the Commission shall use, to the greatest extent practicable, small businesses as defined by section 3 of the Small Business Act (15 U.S.C. 632).

SEC. 10. TERMINATION.

The Commission shall cease operations and terminate 6 years from the date of enactment of this Act.

SEC. 11. DEVELOPMENT OF RECOMMENDATIONS TO THE COMMISSION.

(a) SUBMISSIONS OF AGENCY INFORMATION AND RECOMMENDATIONS.—Not later than 120 days after the date of enactment of this Act and 120 days after the beginning of each fiscal year thereafter, the head of each Federal agency shall submit to the Administrator and the Director of the Office of Management and Budget the following:

(1) CURRENT DATA.—Current data of all Federal civilian real properties owned, leased or controlled by the respective agency, including all relevant information prescribed by the Administrator and the Director of the Office of Management and Budget, including data related to the age and condition of the

property, operating costs, history of capital expenditures, sustainability metrics, number of Federal employees and functions housed in the respective property, square footage (including gross, rentable, and usable).

(2) AGENCY RECOMMENDATIONS.—Recommendations which shall include the following:

(A) Federal civilian properties that can be sold for proceeds and otherwise disposed of, transferred, exchanged, consolidated, co-located, reconfigured, or redeveloped, so as to reduce the civilian real property inventory, reduce the operating costs of the Government, and create the highest value and return for the taxpayer.

(B) Operational efficiencies that the Government can realize in its operation and maintenance of Federal civilian real properties.

(b) STANDARDS AND CRITERIA.—Not later than 60 days after the date specified in subsection (a), the Director of OMB, in consultation with the Administrator, shall review agency recommendations submitted pursuant to subsection (a), and develop consistent standards and criteria against which agency recommendations will be reviewed. The Director of OMB and the Administrator shall develop recommendations to the Commission based on those standards and criteria. In developing the standards and criteria, the Director of OMB, in consultation with the Administrator, shall incorporate the following:

(1) The extent to which the Federal building or facility could be sold, redeveloped, or otherwise used to produce the highest and best value and return for the taxpayer.

(2) The extent to which the operating and maintenance costs are reduced through consolidating, co-locating, and reconfiguring space, and through realizing other operational efficiencies.

(3) The extent to which the utilization rate is being maximized and is consistent with non-governmental industry standards for the given function or operation.

(4) The extent and timing of potential costs and savings, including the number of years, beginning with the date of completion of the proposed recommendation.

(5) The extent to which reliance on leasing for long-term space needs is reduced.

(6) The extent to which a Federal building or facility aligns with the current mission of the Federal agency.

(7) The extent to which there are opportunities to consolidate similar operations across multiple agencies or within agencies.

(8) The economic impact on existing communities in the vicinity of the Federal building or facility.

(9) The extent to which energy consumption is reduced.

(c) SPECIAL RULE FOR UTILIZATION RATES.—Standards developed by the Director of OMB must incorporate and apply clear standard utilization rates consistent throughout each category of space and with nongovernment space utilization rates. To the extent utilization rates are exceeded by a given agency, the Director shall recommend realignment, co-location, consolidation, or other type of action to improve space utilization.

(d) SUBMISSION TO THE COMMISSION.—

(1) IN GENERAL.—The standards, criteria, and recommendations developed pursuant to subsection (b) shall be submitted to the Commission with all supporting information, data, analyses, and documentation.

(2) PUBLICATION.—The standards, criteria, and recommendations shall be published in the Federal Register and transmitted to the committees designated in section 5(c) and to the Comptroller General of the United States.

(3) ACCESS TO INFORMATION.—The Commission shall also have access to all information pertaining to the recommendations, including supporting information, data, analyses, and documentation submitted pursuant to subsection (a). Upon request, Federal agencies shall provide, the Commission any additional information pertaining to its properties.

SEC. 12. COMMISSION DUTIES.

(a) IDENTIFICATION OF PROPERTY REDUCTION OPPORTUNITIES.—The Commission shall identify opportunities for the Government to reduce significantly its inventory of civilian real property and reduce costs to the Government.

(b) IDENTIFICATION OF HIGH VALUE ASSETS.—

(1) IDENTIFICATION OF CERTAIN PROPERTIES.—Not later than 180 days after Commission members are appointed pursuant to section 4, the Commission shall identify not less than 5 Federal properties that are not on the list of surplus or excess as of such date with a total fair market value of not less than

\$500,000,000 to be sold and transmit the list to the President and Congress as Commission recommendations and subject to the approval process described in sections 13 and 14.

(2) **LEASEBACK RESTRICTIONS.**—None of the existing improvements on properties sold under this subsection may be leased back to the Federal Government.

(3) **INFORMATION AND DATA.**—In order to meet the goal established under paragraph (1), Federal agencies shall provide, upon receipt, any and all information and data regarding its properties to the Commission. The Commission shall notify the committees listed under section 5(c) of any failure by any agency to comply with a request of the Commission.

(4) **TRANSFER.**—Not later than 60 days after approval of the Commission recommendations pursuant to paragraph (1), Federal agencies with custody, control, or administrative jurisdiction over the identified properties shall transfer custody, control, and administrative jurisdiction to the Commission.

(5) **SALE.**—Not later than 120 days after approval of Commission recommendations pursuant to paragraph (1) and notwithstanding any other provision of law (except as provided in section 18), the Commission shall sell the properties described in paragraph (1) at fair market value at highest and best use.

(6) **PROCEEDS.**—The proceeds shall be distributed in accordance with section 17.

(c) **ANALYSIS OF INVENTORY.**—The Commission shall perform an independent analysis of the inventory of Federal civilian real property and the recommendations submitted pursuant to section 11. The Commission shall not be bound or limited by the recommendations submitted pursuant to section 11. If, in the opinion of the Commission, an agency fails to provide needed information, data or adequate recommendations that meet the standards and criteria, the Commission shall develop such recommendations as it considers appropriate based on existing data contained in the Federal Real Property Profile or other relevant information.

(d) **RECEIPT OF INFORMATION AND PROPOSALS.**—Notwithstanding any other provision of law, the Commission may receive and consider proposals, information, and other data submitted by State and local officials and the private sector. Such information shall be made publically available.

(e) **ACCOUNTING SYSTEM.**—Not later than 120 days after the date of enactment of this Act, the Commission shall identify or develop and implement a system of accounting to be used to independently evaluate the costs of and returns on the recommendations. Such accounting system shall be applied in developing the Commission's recommendations and determining the highest return to the taxpayer. In applying the accounting system, the Commission shall set a standard performance period.

(f) **PUBLIC HEARING.**—The Commission shall conduct public hearings. All testimony before the Commission at a public hearing under this paragraph shall be presented under oath.

(g) **REPORTING OF INFORMATION AND RECOMMENDATIONS.**—

(1) **IN GENERAL.**—Not later than 120 days after the receipt of recommendations pursuant to section 11, and biannually thereafter, the Commission shall, at a minimum, transmit to the President, and publicly post on a Federal website maintained by the Commission a report containing the Commission's findings, conclusions, and recommendations for the consolidation, exchange, collocation, reconfiguration, lease reductions, sale, and redevelopment of Federal civilian real properties and for other operational efficiencies that can be realized in the Government's operation and maintenance of such properties.

(2) **CONSENSUS IN MAJORITY.**—The Commission shall seek to develop consensus recommendations, but if a consensus cannot be obtained, the Commission may include in its report recommendations that are supported by a majority of the Commission.

(h) **FEDERAL WEBSITE.**—The Commission shall establish and maintain a Federal website for the purposes of making relevant information publically available.

(i) **REVIEW BY GAO.**—The Comptroller General of the United States shall transmit to the Congress and to the Commission a report containing a detailed analysis of the recommendations and selection process.

SEC. 13. REVIEW BY THE PRESIDENT.

(a) **REVIEW OF RECOMMENDATIONS.**—Upon receipt of the Commission's recommendations, the President shall conduct a review of such recommendations.

(b) **REPORT TO COMMISSION AND CONGRESS.**—Not later than 30 days after receipt of the Commission's recommendations, the President shall transmit to the Commis-

sion and Congress a report that sets forth the President's approval or disapproval of the Commission's recommendations.

(c) APPROVAL OR DISAPPROVAL.—If the President—

(1) approves of the Commission's recommendations, the President shall transmit a copy of the recommendations to Congress, together with a certification of such approval;

(2) disapproves of the Commission's recommendations, in whole or in part, the President shall also transmit to the Commission and Congress the reasons for such disapproval. The Commission shall then transmit to the President, not later than 30 days following the disapproval, a revised list of recommendations;

(3) approves all of the revised recommendations of the Commission, the President shall transmit a copy of such revised recommendations to Congress, together with a certification of such approval; or

(4) does not transmit to the Congress an approval and certification described in paragraphs (1) or (3) within 30 days of receipt of the Commission's recommendations or revised recommendations, as the case may be, the process shall terminate until the following year.

SEC. 14. CONGRESSIONAL CONSIDERATION OF THE RECOMMENDATIONS.

(a) RESOLUTION OF DISAPPROVAL.—Not later than 45 days after the date of the President's transmission to Congress of the approved recommendations pursuant to section 13, Congress may enact a joint resolution as described in subsection (c) to disapprove the Commission recommendations.

(b) COMPUTATION OF TIME PERIOD.—For the purposes of this section, the days on which either House of Congress is not in session because of adjournment of more than three days to a day certain shall be excluded in the computation of the period of time.

(c) TERMS OF THE RESOLUTION.—For purposes of this section, the term "joint resolution" means only a joint resolution which is introduced within the 10-day period beginning on the date on which the President transmits the recommendations to Congress under section 13, and—

(1) which does not have a preamble;

(2) the matter after the resolving clause of which is as follows: "That Congress disapproves the recommendations of the Civilian Property Realignment Commission as submitted by the President on _____", the blank space being filled in with the appropriate date; and

(3) the title of which is as follows: "Joint resolution disapproving the recommendations of the Civilian Property Realignment Commission".

(d) REFERRAL.—A resolution described in subsection (c) that is introduced in the House of Representatives shall be referred to the Committee on Transportation and Infrastructure in the House of Representatives. A resolution described in subsection (c) introduced in the Senate shall be referred to the Committee on the Environment and Public Works in the Senate.

(e) DISCHARGE.—If the committee to which a resolution described in subsection (c) is referred has not reported such a resolution (or an identical resolution) by the end of the 20-day period beginning on the date on which the President transmits the report to the Congress under section 13, such committee shall be, at the end of such period, discharged from further consideration of such resolution, and such resolution shall be placed on the appropriate calendar of the House involved.

(f) CONSIDERATION.—

(1) IN GENERAL.—On or after the third day after the date on which the committee to which such resolution is referred has reported, or has been discharged (under subsection (e)) from further consideration of, such a resolution, it is in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution. A member may make the motion only on the date after the calendar day on which the Member announces to the House concerned the Member's intention to make the motion, except that, in the case of the House of Representatives, the motion may be made without such prior announcement if the motion is made by direction of the committee to which the resolution was referred. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to consideration of the joint resolution is agreed to, the respective House shall immediately proceed to the consideration of the joint resolution without intervening motion, order, or other business, and the resolution shall remain the unfinished business of the respective House until disposed of.

(2) **DEBATE.**—Debate on the resolution and on all debatable motions and appeals in connection therewith, shall be limited to not more than 2 hours, which shall be divided equally between those favoring and those opposing the resolution. An amendment to the resolution is not in order. A motion further to limit debate is in order and not debatable. A motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed is not in order.

(3) **VOTE.**—Immediately following the conclusion of the debate on a resolution described in subsection (c) and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

(4) **APPEALS OF DECISIONS OF THE CHAIR.**—Appeals of the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in subsection (c) shall be decided without debate.

(g) **CONSIDERATION BY OTHER HOUSE.**—

(1) **IN GENERAL.**—If, before the passage by one House of a resolution of that House described in subsection (c), that House received from the other House a resolution described in subsection (c), then the following procedures shall apply:

(A) **NO COMMITTEE REFERRAL.**—The resolution of the other House shall not be referred to a committee and may not be considered in the House receiving it except in the case of final passage as provided in subparagraph (B).

(B) **RESOLUTION PROCEDURE.**—With respect to a resolution described in subsection (c) of the House receiving the resolution the procedure in that House shall be the same as if no resolution had been received from the other House, but the vote on final passage shall be on the resolution of the other House.

(2) **NO CONSIDERATION.**—Upon disposition of the resolution received from the other House, it shall no longer be in order to consider the resolution that originated in the receiving House.

(h) **RULES OF THE SENATE AND HOUSE.**—This section is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in this section, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(i) **FAILURE TO PASS RESOLUTION OF DISAPPROVAL.**—If Congress fails to pass such a joint resolution within 45 calendar days after the date of the President's transmission to Congress of the Commission's recommendations, the recommendations immediately gain legal force and shall be in effect and Federal agencies shall implement and carry out all of the Commission's recommendations pursuant to section 15.

SEC. 15. IMPLEMENTATION OF COMMISSION RECOMMENDATIONS.

(a) **CARRYING OUT RECOMMENDATIONS.**—Upon the date specified in section 14(i), Federal agencies shall immediately begin preparation to carry out the Commission's recommendations and shall initiate all activities no later than 2 years after the date on which the President transmits the recommendations to Congress. Federal agencies shall complete all recommended actions no later than the end of the 6-year period beginning on the date on which the President transmits the Commission's recommendations to Congress. All actions shall be economically beneficial and be cost neutral or otherwise favorable to the Government. For actions that will take longer than the 6-year period due to extenuating circumstances, each Federal agency shall notify the President and Congress as soon as the extenuating circumstance presents itself with an estimated time to complete the relevant action.

(b) **ACTIONS OF FEDERAL AGENCIES.**—In taking actions related to any Federal building or facility under this Act, Federal agencies may, pursuant to subsection (c), take all such necessary and proper actions, including—

(1) acquiring land, constructing replacement facilities, performing such other activities, and conducting advance planning and design as may be required to transfer functions from a Federal asset or property to another Federal civilian property;

(2) providing outplacement assistance to civilian employees employed by any Federal agency at a Federal civilian property impacted by such actions; and

(3) reimbursing other Federal agencies for actions performed at the request of the Commission.

(c) **NECESSARY AND PROPER ACTIONS.**—When acting on a recommendation of the Commission, a Federal agency shall continue to act within their existing legal authorities, whether such authority has been delegated by the Administrator, or must work in partnership with the Administrator to carry out such actions. The Administrator may take such necessary and proper actions, including the sale, conveyance, or exchange of civilian real property, as required to implement the Commission recommendations in the time period required under subsection (a). The Administrator shall enter into and use commission-based contracts for real estate services to assist in carrying out property transactions required by the Commission's recommendations.

(d) **DISCRETION OF COMMISSION REGARDING TRANSACTIONS.**—For any transaction identified, recommended, or commenced as a result of this Act, any otherwise required legal priority given to, or requirement to enter into, a transaction to convey a Federal civilian real property for less than fair market value, for no consideration at all, or in a transaction that mandates the exclusion of other market participants, shall be at the discretion of the Commission.

SEC. 16. AUTHORIZATION OF APPROPRIATIONS.

(a) **IN GENERAL.**—There is authorized a one-time appropriation to carry out this Act in the following amounts:

(1) \$20,000,000 for salaries and expenses of the Commission.

(2) \$62,000,000 to be deposited into the Asset Proceeds and Space Management Fund for activities related to the implementation of the Commission recommendations.

(b) **FEDERAL BUILDINGS FUND.**—There is authorized to be appropriated from the Federal Buildings Fund established under section 592 of title 40, United States Code, for construction and acquisition activities \$0 for fiscal year 2012.

SEC. 17. FUNDING.

(a) **CREATION OF SALARIES AND EXPENSES ACCOUNT.**—There is hereby established on the books of the Treasury an account to be known as the “Civilian Property Realignment Commission—Salaries and Expenses” account.

(1) **NECESSARY PAYMENTS.**—There shall be deposited into the account such amounts, as are provided in appropriations Acts, for those necessary payments for salaries and expenses to accomplish the administrative needs of the Commission.

(2) **NO APPROPRIATIONS.**—If no amounts are appropriated for the salaries and expenses of the Commission for a particular fiscal year, the Director of the Office of Management and Budget may support the Commission's activities under this Act during such year if the Director approves, in consultation with the Administrator, a transfer to the Commission of amounts from the “Civilian Property Realignment Commission—Asset Proceeds and Space Management Fund” within the Federal Buildings Fund established under section 592 of title 40, United States Code, subject to subsection (b)(3) and (4) of this section.

(b) **CREATION OF ASSET PROCEEDS AND SPACE MANAGEMENT FUND.**—There is hereby established within the Federal Buildings Fund established under section 592 of title 40, United States Code, an account to be known as the “Civilian Property Realignment Commission—Asset Proceeds and Space Management Fund” which shall be used solely for the purposes of carrying out actions pursuant to the Commission recommendations approved under section 14. Notwithstanding section 3307 of title 40, United States Code, the following amounts shall be deposited into the account and are hereby appropriated and shall remain available until expended for the following specified purposes:

(1) Such amounts as are provided in appropriations Acts, to remain available until expended, for the consolidation, co-location, exchange, redevelopment, reconfiguration of space and other actions recommended by the Commission for Federal agencies.

(2) Gross proceeds received from the proceeds of any civilian real property action taken pursuant to a recommendation of the Commission under section 15. The Commission, in consultation with the Administrator, may transfer from the gross proceeds to a Federal agency, only amounts necessary to cover costs directly associated with sales transactions pursuant to implementing the recommendations pursuant to section 15.

(3) Net proceeds (which are gross proceeds received from the sale of any civilian real property pursuant to a recommendation of the Commission, less the amounts transferred from this account under subsection (b)(2)), shall be divided

between the General Fund of the Treasury and the Asset Proceeds and Space Management Fund within the Federal Buildings Fund. On an annual basis, the Director of the Office of Management and Budget, shall determine how the net proceeds shall be distributed, through transfer, between the General Fund and the Asset Proceeds and Space Management Fund, except that the General Fund shall receive—

(A) 100 percent of all net proceeds in a fiscal year until the total amount of net proceeds in that fiscal year exceeds \$50,000,000; and

(B) at least 60 percent of the net proceeds thereafter in that fiscal year.

(4) The Commission, in consultation with the Administrator, may transfer from the net proceeds deposited into the Space Management Fund pursuant to paragraph (3) to a Federal agency, amounts necessary to cover costs associated with implementing the recommendations pursuant to section 15 not necessary for the purposes of sale transactions pursuant to paragraph (2) of this subsection. In support of its duties, the Commission, in consultation with the Administrator, may transfer from the net proceeds of the Space Management Fund to a Federal agency, amounts—

(A) to cover the necessary costs associated with—

(i) consolidation, co-location, redevelopment, and reconfiguration actions; and

(ii) other actions taken to otherwise realize operational efficiencies, including such actions as environmental restoration; and

(B) for outplacement assistance to Federal employees who work at a Federal property that is affected by actions taken under this section, and whose employment would be terminated as a result of such disposal, consolidation, or other realignment.

SEC. 18. DISPOSAL OF REAL PROPERTIES.

(a) IN GENERAL.—Notwithstanding any other provision of law, any recommendation or commencement of a disposal or realignment of civilian real property shall not be subject to—

(1) section 545(b)(8) of title 40, United States Code;

(2) sections 550, 554, and 553 of title 40, United States Code;

(3) section 501 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11411);

(4) sections 1 through 3 of the Act of May 19, 1948 (Chap. 310; 62 Stat. 240; 16 U.S.C. 667b–667d);

(5) section 47151 of title 49, United States Code;

(6) sections 107 and 317 of title 23, United States Code;

(7) section 1304(b) of title 40, United States Code;

(8) section 13(d) of the Surplus Property Act of 1944 (50 U.S.C. App. 1622(d)); and

(9) any other provision of law authorizing the conveyance of real property owned by the Government for no consideration.

(b) ENVIRONMENTAL CONSIDERATIONS.—

(1) NEPA APPLICATION.—The provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall not apply to the actions of the President, the Commission, or any Federal agency, in carrying out any of the Commission's recommendations except—

(A) during the process of property disposal; and

(B) during the process of relocating functions from a property being disposed of or realigned to another property after the receiving property has been selected but before the functions are relocated.

(2) NEPA EXCEPTIONS.—In applying the provisions of the National Environmental Policy Act of 1969 to the processes referred to in subsection (b)(1), the agencies do not have to consider—

(A) the need for closing or realigning the property which has been recommended for closure or realignment by the Commission;

(B) the need for transferring functions to another Federal civilian property; or

(C) any alternative path, not associated with an environmental choice, to those recommended or selected.

(3) CIVIL ACTION.—A civil action for judicial review, with respect to any requirement of the National Environmental Policy Act of 1969 to the extent such Act is applicable under subsection (b)(2), of any Act or failure to act by a Federal agency during the closing, realigning, or relocating of functions referred to in subsection (b)(2), may not be brought more than 60 days after the dates of such act or failure to act.

(4) **DISPOSAL OF REALIGNED PROPERTY.**—Federal agencies may dispose or realign property without regard to any provision of law described in subsection (a), restricting the use of funds for disposing or realigning Federal civilian property included in any appropriations or authorization Act.

(5) **TRANSFER OF REAL PROPERTY.**—

(A) **IN GENERAL.**—When implementing the recommended actions pursuant to section 15 for properties that have been identified in the Commission's recommendations and in compliance with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), including section 120(h) thereof (42 U.S.C. 9620(h)), Federal agencies may enter into an agreement to transfer by deed real property with any person.

(B) **ADDITIONAL TERMS.**—The head of the disposing agency may require any additional terms and conditions in connection with an agreement authorized by subparagraph (A) as the head of the disposing agency considers appropriate to protect the interests of the United States. Such additional terms and conditions shall not affect or diminish any rights or obligations of the federal agencies under CERCLA section 120(h) (including, without limitation, the requirements CERCLA section 120(h)(3)(A) and CERCLA section 120(h)(3)(C)(iv)).

(6) **INFORMATION DISCLOSURE.**—As part of an agreement pursuant to this Act, the agency shall disclose to the person to whom the property or facilities will be transferred any information of the Federal agency regarding the environmental restoration, waste management, and environmental compliance activities described in this Act that relate to the property or facilities. The agency shall provide such information before entering into the agreement.

(c) **CONSTRUCTION OF CERTAIN ACTS.**—Nothing in this section shall be construed to modify, alter, or amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) or the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

SEC. 19. CONGRESSIONAL APPROVAL OF PROPOSED PROJECTS.

Section 3307(b) of title 40, United States Code is amended—

- (1) by striking “and” at the end of paragraph (6);
- (2) by striking the period at the end of paragraph (7) and inserting “; and”;
- and
- (3) by adding at the end the following:

“(8) a statement of how the proposed project is consistent with section 11(b) of the Civilian Property Realignment Act.”.

SEC. 20. LIMITATION OF CERTAIN LEASING AUTHORITIES.

(a) **LIMITATION ON CERTAIN LEASING AUTHORITIES.**—Chapter 33 of title 40, United States Code, is amended by adding at the end the following:

“§ 3317. Limitation on leasing authority of other agencies

“(a) **IN GENERAL.**—Notwithstanding any other provision of law, no executive agency may lease space for the purposes of a public building as defined under section 3301, except as provided under section 585, and the provisions in this chapter.

“(b) **PUBLIC BUILDING.**—For the purposes of this section, the term ‘public building’ shall include leased space.

“(c) **FURTHER EXCLUSIONS.**—This section shall not apply to—

- “(1) properties that are excluded for reasons of national security by the President; and
- “(2) properties of the Department of Veterans Affairs.

“(d) **CONSTRUCTION.**—Nothing in this section shall be construed as creating new authority for executive agencies to enter into leases or limit the authority of the Administration under section 3314.”.

(b) **SMALL BUSINESSES.**—When using commercial leasing services, the Administrator shall adhere to the requirements of the Small Business Act (15 U.S.C. et seq.).

(c) **CLERICAL AMENDMENT.**—The analysis for such chapter is amended by adding at the end:

“3317. Limitation on leasing authority of other agencies.”.

SEC. 21. IMPLEMENTATION REVIEW BY GAO.

Upon the date specified in section 14(i), the Comptroller General of the United States at least annually shall monitor, review the implementation activities of Federal agencies pursuant to section 15, and report to Congress any findings and recommendations.

SEC. 22. REALIGNMENT OF REAL PROPERTY OWNED OR MANAGED BY THE BUREAU OF OVERSEAS BUILDING OPERATIONS.

(a) **LIST OF ASSETS.**—On an annual basis, the Commission shall identify and create a list of assets located outside of the United States and its territories that are owned or managed by the Department of State's Bureau of Overseas Building Operations that may—

(1) be sold for proceeds so as to reduce the civilian real property inventory and operating costs of the Federal Government; or

(2) be otherwise disposed of, transferred, consolidated, co-located, or reconfigured so as to reduce the operating costs of the Federal Government.

(b) **LIST TO SECRETARY OF STATE.**—The Commission shall provide this list created pursuant to subsection (a) to the Secretary of State.

(c) **REVIEW AND REPORT.**—Not later than 90 calendar days after the receipt of the list created pursuant to subsection (b), the Department of State shall review this list and send a report to the Commission. The report shall include the conclusions of this review by the Department of State.

(d) **RECOMMENDATIONS OF CERTAIN CIVILIAN REAL PROPERTY ASSETS.**—Consistent with section 12, the Commission may only make recommendations involving civilian real property assets that are located outside of the United States and its territories and owned or managed by the Department of State's Bureau of Overseas Building Operations if the assets are on the list provided to the Department of State pursuant to this section and the Department of State has submitted a report on the list to the Commission pursuant to subsection (c).

(e) **REMOVAL OF CERTAIN CIVILIAN REAL PROPERTY TRANSACTION ASSETS.**—Consistent with section 12, not later than 20 calendar days after the submission of the Commission's report to the President, the Secretary of State may remove any transaction that involves a civilian real property asset that is located outside of the United States and its territories and owned or managed by the Department of State's Bureau of Overseas Building Operations from the Commission recommendations or list of recommendations made pursuant to section 12.

(f) **APPEAL BY SECRETARY OF STATE.**—Nothing in this section shall restrict the ability of the Secretary of State to appeal to the Director of OMB or Commission for funding by the Commission's Asset Proceeds and Space Management Fund to support the cost of implementing a recommendation.

(g) **PROCEEDS.**—For the purposes of this Act, proceeds from the disposal of assets located outside of the United States and its territories that are owned or managed by the Department of State's Bureau of Overseas Building Operations as identified by the Commission and disposed of pursuant to this Act shall be deposited into the Asset Proceeds and Space Management Fund. Proceeds from the disposal of assets by the Department of State that are not disposed of pursuant to this Act shall be retained by the Department of State.

SEC. 23. NATIONAL WOMEN'S HISTORY MUSEUM.

(a) **DEFINITIONS.**—In this section, the following definitions apply:

(1) **ADMINISTRATOR.**—The term "Administrator" means the Administrator of General Services.

(2) **CERCLA.**—The term "CERCLA" means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

(3) **COMMITTEES.**—The term "Committees" means the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate.

(4) **MUSEUM.**—The term "Museum" means the National Women's History Museum, Inc., a District of Columbia nonprofit corporation exempt from taxation pursuant to section 501(c)(3) of the Internal Revenue Code of 1986.

(5) **PROPERTY.**—Except as provided in section 25 of this Act, the term "Property" means the property located in the District of Columbia, subject to survey and as determined by the Administrator, generally consisting of Squares 325 and 326 and a portion of Square 351. The Property is generally bounded by 12th Street, Independence Avenue, C Street, and the James Forrestal Building, all in Southwest Washington, District of Columbia, and shall include all associated air rights, improvements thereon, and appurtenances thereto.

(b) **CONVEYANCE OF PROPERTY.**—

(1) **AUTHORITY TO CONVEY.**—

(A) **IN GENERAL.**—Subject to the requirements of this section, the Administrator shall convey the Property to the Museum, on such terms and conditions as the Administrator considers reasonable and appropriate to protect the interests of the United States and further the purposes of this section.

(B) **AGREEMENT.**—As soon as practicable, but not later than 180 days after the date of enactment of this Act, the Administrator shall enter into an agreement with the Museum for the conveyance.

(C) TERMS AND CONDITIONS.—The terms and conditions of the agreement shall address, among other things, mitigation of developmental impacts to existing Federal buildings and structures, security concerns, and operational protocols for development and use of the property and provisions to provide for the exercise by the Museum of its right of first refusal pursuant to section 25.

(2) PURCHASE PRICE.—

(A) IN GENERAL.—The purchase price for the Property shall be its fair market value based on its highest and best use as determined by an independent appraisal commissioned by the Administrator and paid for by the Museum.

(B) SELECTION OF APPRAISER.—The appraisal shall be performed by an appraiser mutually acceptable to the Administrator and the Museum.

(C) TERMS AND CONDITIONS FOR APPRAISAL.—

(i) IN GENERAL.—Except as provided in clause (ii), the assumptions, scope of work, and other terms and conditions related to the appraisal assignment shall be mutually acceptable to the Administrator and the Museum.

(ii) REQUIRED TERMS.—The appraisal shall assume that the Property does not contain hazardous substances (as defined in section 101 of CERCLA (42 U.S.C. 9601)) or any other hazardous waste or pollutant that requires a response action or corrective action under any applicable environmental law.

(3) APPLICATION OF PROCEEDS.—The purchase price shall be paid into an account in the Federal Buildings Fund established under section 592 of title 40, United States Code. Upon deposit, the proceeds from the conveyance may only be expended subject to a specific future appropriation.

(4) QUIT CLAIM DEED.—The Property shall be conveyed pursuant to a quit claim deed.

(5) USE RESTRICTION.—The Property shall be dedicated for use as a site for a national women's history museum for the 99-year period beginning on the date of conveyance to the Museum.

(6) FUNDING RESTRICTION.—No Federal funds shall be made available—

(A) to the Museum for—

(i) the purchase of the Property; or

(ii) the design and construction of any facility on the Property; or

(B) by the Museum or any affiliate of the Museum as a credit pursuant to subsection (c).

(7) REVERSION.—

(A) BASES FOR REVERSION.—The Property shall revert to the United States, at the option of the United States, without any obligation for repayment by the United States of any amount of the purchase price for the property, if—

(i) the Property is not used as a site for a national women's history museum at any time during the 99-year period referred to in subsection (e); or

(ii) the Museum has not commenced construction of a museum facility on the Property in the 5-year period beginning on the date of enactment of this Act, other than for reasons beyond the control of the Museum as reasonably determined by the Administrator.

(B) ENFORCEMENT.—The Administrator may perform any acts necessary to enforce the reversionary rights provided in this section.

(C) CUSTODY OF PROPERTY UPON REVERSION.—If the Property reverts to the United States pursuant to this section, such property shall be under the custody and control of the Administrator.

(8) CLOSING.—The conveyance pursuant to this section shall occur not later than 3 years after the date of enactment of this Act. The Administrator may extend that period for such time as is reasonably necessary for the Museum to perform its obligations under section subsection (c).

(c) ENVIRONMENTAL MATTERS.—

(1) AUTHORIZATION TO CONTRACT FOR ENVIRONMENTAL RESPONSE ACTIONS.—In fulfilling the responsibility of the Administrator to address contamination on the Property, the Administrator may contract with the Museum or an affiliate of the Museum for the performance (on behalf of the Administrator) of response actions on the Property.

(2) CREDITING OF RESPONSE COSTS.—

(A) IN GENERAL.—Any costs incurred by the Museum or an affiliate of the Museum using non-Federal funding pursuant to paragraph (1) shall be credited to the purchase price for the Property.

(B) LIMITATION.—A credit under subparagraph (A) shall not exceed the purchase price of the Property.

(3) NO EFFECT ON COMPLIANCE WITH ENVIRONMENTAL LAWS.—Nothing in this section, or any amendment made by this section, affects or limits the application of or obligation to comply with any environmental law, including section 120(h) of CERCLA (42 U.S.C. 9620(h)).

(d) INCIDENTAL COSTS.—Subject to subsection (c), the Museum shall bear any and all costs associated with complying with the provisions of this section, including studies and reports, surveys, relocating tenants, and mitigating impacts to existing Federal buildings and structures resulting directly from the development of the property by the Museum.

(e) LAND USE APPROVALS.—

(1) EXISTING AUTHORITIES.—Nothing in this section shall be construed as limiting or affecting the authority or responsibilities of the National Capital Planning Commission or the Commission of Fine Arts.

(2) COOPERATION.—

(A) ZONING AND LAND USE.—Subject to subparagraph (B), the Administrator shall reasonably cooperate with the Museum with respect to any zoning or other land use matter relating to development of the Property in accordance with this section. Such cooperation shall include consenting to applications by the Museum for applicable zoning and permitting with respect to the Property.

(B) LIMITATIONS.—The Administrator shall not be required to incur any costs with respect to cooperation under this subsection and any consent provided under this subsection shall be premised on the Property being developed and operated in accordance with this section.

(f) REPORTS.—Not later than 1 year after the date of enactment of this Act, and annually thereafter until the end of the 5-year period following conveyance of the Property or until substantial completion of the museum facility (whichever is later), the Museum shall submit annual reports to the Administrator and the Committees detailing the development and construction activities of the Museum with respect to this section.

SEC. 24. FACILITIES CONSOLIDATION, SAVINGS, AND EFFICIENCY.

(a) TRANSFER.—Notwithstanding any other provision of law and not later than December 31, 2012, the Administrator of General Services shall transfer administrative jurisdiction, custody, and control of the building located at 600 Pennsylvania Avenue, NW., District of Columbia, to the National Gallery of Art for the purpose of housing and exhibiting works of art and to carry out administrative functions and other activities related to the mission of the National Gallery of Art.

(b) REMODELING, RENOVATING, OR RECONSTRUCTING.—

(1) IN GENERAL.—The National Gallery of Art shall pay for the costs of remodeling, renovating, or reconstructing the building referred to in subsection (a).

(2) FEDERAL SHARE.—No appropriated funds may be used for the initial costs for the remodeling, renovating, or reconstructing of the building referred to in subsection (a).

(3) PROHIBITION.—The National Gallery of Art may not use sale, lease, or exchange, including leaseback arrangements, for the purposes of remodeling, renovating, or reconstructing the building referred to in subsection (a).

(c) RELOCATION OF THE FEDERAL TRADE COMMISSION.—

(1) RELOCATION.—Not later than December 31, 2012, the Administrator of General Services shall relocate the Federal Trade Commission employees and operations housed in the building identified in subsection (a) to not more than 160,000 usable square feet of space in the southwest quadrant of the leased building known as Constitution Center located at 400 7th Street, Southwest in the District of Columbia.

(2) OCCUPANCY AGREEMENT.—Not later than 30 days after the date of enactment of this Act, the Administrator of General Services and the Securities and Exchange Commission shall execute an agreement to assign or sublease the space (leased pursuant to a Letter Contract entered into by the Securities and Exchange Commission on July 28, 2010), as described in paragraph (1), for the purposes of housing the Federal Trade Commission employees and operations relocating from the building located at 600 Pennsylvania Avenue, NW., District of Columbia, pursuant to paragraph (1) of this subsection.

(d) NATIONAL GALLERY OF ART.—Beginning on the date that the National Gallery of Art occupies the building referred to in subsection (a)—

(1) the building shall be known and designated as the “North Building of the National Gallery of Art”; and

(2) any reference in a law, map, regulation, document, paper, or other record of the United States to the building shall be deemed to be a reference to the “North Building of the National Gallery of Art”.

(e) DISCRETIONARY AUTHORIZATION REDUCTIONS.—

(1) ENERGY AND WATER RETROFIT AND CONSERVATION.—The authorization of appropriations for the energy and water retrofit and conservation measures program of the General Services Administration shall be reduced from \$20,000,000 to \$0 for fiscal years 2012 and 2013.

(2) WELLNESS AND FITNESS PROGRAM.—The authorization of appropriations for the wellness and fitness program of the General Services Administration shall be reduced from \$7,000,000 to \$0 for fiscal years 2012 and 2013.

SEC. 25. ADDITIONAL SALES AND SAVINGS.

(a) DEFINITION.—In this section, the term “Property” means the property located in the District of Columbia, subject to survey and as determined by the Administrator, generally consisting of Squares 351 N, 351, 352, 325, 326, and the portion of Square 383 containing the north building of the James Forrestal Building Complex. The Property is generally bounded by Independence Avenue, 12th Street, Maryland Avenue, and 9th Street in Southwest, Washington D.C.

(b) SALE.—Not later than December 31, 2013, the Administrator shall sell the Property at fair market value at highest and best use only if the Administrator determines such sale would result in net proceeds, as defined in subsection (d)(2), to the Federal Government exceeding \$200 million.

(c) LEASEBACK RESTRICTION.—If the Property is sold pursuant to subsection (b), none of the existing improvements on the Property may be leased back to the Federal Government.

(d) APPLICATION OF PROCEEDS.—

(1) GROSS PROCEEDS.—Proceeds derived from the sale of the Property shall be used by the Administrator to provide for not more than 320,000 square feet of government-owned replacement space for the federal agency functions housed on the Property.

(2) NET PROCEEDS.—Any net proceeds received, exceeding the expenses pursuant to paragraph (1) shall be paid into an account in the Federal Buildings Fund established under section 592 of title 40, United States Code. Upon deposit, the net proceeds from the sale may only be expended subject to a specific future appropriation.

(e) RIGHT OF FIRST REFUSAL.—The Administrator shall provide the Museum as defined in section 23, a right of first refusal to purchase, pursuant to the provisions of such section, the parcel generally consisting of Squares 351 N and portions of 325, generally bounded by Independence Avenue on the north, 12th Street on the east, 10th Street on the west, and through a portion of Square 325 on the south in Southwest, Washington, D.C.

(f) DETERMINATION OF PROCEEDS.—If the Administrator determines the net proceeds derived from the sale of the Property would not exceed \$200 million, the Administrator shall sell at fair market value at highest and best use Square 326, including the vacant building known as the “Cotton Annex”, not later than 180 days following the determination of the Administrator, and shall sell the Property as defined in section 23 in accordance with the provisions of that section.

(g) SALE OF PROPERTY.—If the Museum agrees not to exercise its first right of refusal under this section, the Administrator shall sell the Property described under subsection (a) of section 23 in accordance with the provisions of such section.

SEC. 26. RESTRICTION ON USE OF FUNDS.

(a) RESTRICTION ON USE OF FUNDS.—Notwithstanding any other provision of law, the Administrator of General Services shall not use funds appropriated for constructing a new courthouse in Los Angeles, California in the Federal Buildings Fund established under section 592 of title 40, United States Code, except as provided for in a specific future appropriation.

(b) SALE OF CERTAIN PROPERTY.—Not later than December 31, 2013, the Administrator of General Services shall sell at fair market value at highest and best use any property purchased or otherwise acquired for the purposes of constructing a new courthouse described in subsection (a).

PURPOSE OF LEGISLATION

The purpose of H.R. 1734 is to save taxpayer money by shrinking the federal real property footprint through selling or redeveloping high value properties, consolidating federal space, maximizing the utilization rates, and streamlining the disposal of unneeded assets.

BACKGROUND AND NEED FOR LEGISLATION

Management issues

Given the vast real estate holdings of the federal government, poor asset management and missed market opportunities cost taxpayers significant sums of money. For this reason, in 2003, the Government Accountability Office (GAO) placed real property management on its list of “high risk” government activities, where it remains today. GAO conducts biennial reviews on high-risk areas within the federal government to bring focus to specific areas needing added attention and oversight. Areas are identified as “high risk” due to their greater vulnerabilities to fraud, waste, abuse, and mismanagement or areas that need broad-based transformation to address major economic, efficiency, or effectiveness challenges.

The key reasons the GAO identified federal real property as high risk are:

- excess and underutilized real property,
- deteriorating and aging facilities,
- unreliable property data, and
- over-reliance on costly leasing.¹

Unfortunately, despite executive orders and memoranda issued during two administrations and acts of Congress intended to improve the management of federal real property, these problems persist.² The GAO noted recently in its 2011 High Risk report issued in February 2011, that some progress has been made in some of these areas but “federal agencies continue to face long-standing problems, such as overreliance on leasing, excess property, and protecting federal facilities.”³

The high risk activities of federal real property are significant. Considerable amounts of vacant or underperforming assets can translate into significant costs associated with their operation, maintenance, and security. For example, in fiscal year 2009, the federal government spent \$1.7 billion in annual operating costs for under-utilized buildings and \$134 million, annually, for excess buildings.⁴

IMPEDIMENTS TO REDUCING SPACE COSTS AND THE SOLUTION

There are various reasons why the federal government is paying more for space than it should. Through the Committee’s jurisdiction over public buildings and its oversight and review of General Services Administration (GSA) proposals for construction, leasing, and renovation of federal space, the Committee has identified a number of impediments to reducing the cost of space. Many of these impediments have also been identified by the GAO in its investigations. These impediments include: (1) agencies unwilling to

¹See *High Risk Series: Federal Real Property*, U.S. General Accountability Office, GAO-03-122, January 2003.

²See, for example, Executive Order 13327, Federal Real Property Asset Management, signed by President George W. Bush, February 4, 2004; Presidential Memorandum, Disposing of Unneeded Federal Real Estate, signed by President Barack Obama, June 10, 2010; Public Buildings Cooperative Use Act of 1976; Public Law 108-447, Division H, Title IV, Section 412, December 8, 2004 (providing enhanced flexibility to GSA in real property management).

³High Risk Series: Managing Federal Real Property, U.S. General Accountability Office, GAO-11-278, February 2011, p. 58.

⁴FY 2009 Federal Real Property Report, Federal Real Property Council, September 2010, p. 5.

share space, (2) agencies seeking unnecessarily large offices and space even as the private sector has begun reducing office space, (3) agencies reluctant to relocate from what they view as “prime” locations, and (4) initial costs and red tape associated with selling or disposing of unneeded property.

While the private sector reduced its real estate needs to save money, the federal government continues to expand its space footprint. In order to counter this trend, promote better utilization of space, realize financial returns on under-used high value assets, and improve efficiency, including energy efficiency, H.R. 1734 was introduced. The legislation is intended to create a process that would independently establish space standards, apply them to the federal inventory, and provide a streamlined manner to ensure actions are taken by agencies to reduce the federal real estate footprint.

H.R. 1734 is intended to save taxpayer money by selling and re-developing high value assets, consolidating facilities, maximizing utilization rates, and increasing the use of efficient space. H.R. 1734 would require the Commission established in the legislation to examine federal real property across government used and unused and make decisions based on the best return to the taxpayer. In order to accomplish these goals, H.R. 1734 is modeled after the Base Realignment and Closure process.

Base realignment and closure

The Base Realignment and Closure (BRAC) process was first established by Congress through the Defense Base Closure and Realignment Act of 1988. Its purpose was to create a framework for the realignment and disposal of Department of Defense (DoD) properties. The BRAC process was also intended to establish a fair process of evaluating DoD’s space needs and determining the best space solutions for DoD facilities. Since 1988, there have been five rounds of BRAC, with the most recent commission established in 2005.

The BRAC process first requires DoD to collect data about its facilities and establish standards and criteria to apply in the evaluation of those facilities. Applying those standards and criteria, DoD then develops recommendations on base closures and realignments. Those recommendations are sent to the independent BRAC Commission for review. The Commission then determines if DoD followed its standards and criteria and reviews the associated data to determine if changes to the recommendations are appropriate. The BRAC Commission may make revisions; however, those revisions are limited in scope. The BRAC Commission then submits its recommendations to the President, who in turn must forward all recommendations to Congress or none of them. If the President disapproves of the BRAC recommendations, BRAC can revise and re-submit to the President. If the President approves of the revisions the recommendations are transmitted to Congress. Congress must affirmatively disapprove of the recommendations within a specified period of time and if Congress does not disapprove of the recommendations, the BRAC recommendations are implemented.

The BRAC process and H.R. 1734

While H.R. 1734 is modeled after BRAC there are key differences. These differences include:

- *H.R. 1734 applies Government-wide:* BRAC applied to one federal department (DoD) with DoD leadership that was motivated to carry out the BRAC process. Unlike BRAC, H.R. 1734 applies to property issues government-wide including those agencies that may or may not be willing partners in the process. Unlike the private sector, agencies have few incentives to eliminate unneeded property or shrink their space footprint. And, even in those cases in which agencies want to dispose of real property, the process for doing so can be slow and require initial appropriations.
- *H.R. 1734's Focus is Reducing Costs:* While the BRAC process sought to reduce costs and increase efficiencies, the primary purpose of the BRAC process was the realignment of DoD facilities. The primary purpose of CPRA is to cut waste and save taxpayer dollars.
- *Authority of the Commission:* The BRAC Commission had limited authority to modify the recommendations from DoD. The CPRA Commission would have in effect de novo review over agency recommendations. Given the fact agencies may or may not be willing partners in the process, the Commission in H.R. 1734 would have authority to adopt agency recommendations or adopt others developed by the Commission itself.

Conclusion

The management of federal real property has been a challenge even before appearing on GAO's High Risk list. The costs of real property are significant and most agencies do not have the incentives to minimize those costs. Properties sit vacant or woefully under-utilized, not only costing taxpayers billions of dollars but often are eye sores in local communities. And, despite the current budget climate, many agencies continue to seek more space than is necessary, reducing efficiency and increasing costs. H.R. 1734 is intended to bring an independent process, outside of bureaucratic red tape, to the management of federal real property.

SUMMARY OF LEGISLATION

Section 1: Short title

Section 1 designates the short title of the Act as the "Civilian Property Realignment Act."

Section 2: Purposes

Section 2 lists the purposes of the bill to include: reducing and consolidating the footprint of federal buildings; maximizing the utilization rate; reducing leasing where appropriate; selling or redeveloping high value assets; using consolidation, co-location, and reconfiguring to reduce operating expenses; reducing overlap in field offices; creating incentives for agencies to achieve greater efficiencies; facilitating sale or disposal of unneeded properties; and achieving sustainability goals.

The intention of this section is to highlight that real cost savings will only be produced through a combination of actions. While selling off properties already declared excess or surplus may help,

many of those properties will realize little net income. Real savings are achieved by consolidations, co-locations, reducing field office overlap and tapping into the value of high value assets. These high value assets would not be of the nature that would be declared excess or surplus. These may be assets that are used to some extent but would produce a greater return to the taxpayer if sold or redeveloped and the federal tenants relocated to less valuable locations.

Section 3: Definitions

Section 3 provides relevant definitions including a definition for civilian real property that is consistent with public buildings definition in the Public Buildings Act.

Section 4: Commission

Section 4 establishes a commission to carry out duties as described in the Act. Commission would be composed of 9 members, including a chairman appointed by the President, by and with the advice and consent of the Senate, and 8 members appointed by the President. Six of the members would be appointed with input by the House and Senate leadership. The section sets terms for 6 years and requires that the composition of the members include expertise related to commercial real estate and development, government management or operations, community development, and historic preservation.

The intention of the Committee is to ensure those on the Commission include individuals with strong private sector real estate experience that will help identify properties and opportunities for savings.

Section 5: Commission meetings

Section 5 requires Commission meetings be public and open, establishes what constitutes a quorum, and ensures information is accessible to oversight committees and the GAO.

Testimony received by the Committee on the legislation included lessons-learned from BRAC and indicated that an open process is critical. An open process ensures appropriate input into the process and ensures the public and stakeholders are fully informed. The Committee expects the Commission to utilize regional public meetings to help it identify appropriate federal properties and redevelopment opportunities for its recommendations.

Section 6: Compensation and travel expenses

Section 6 sets the compensation rate for the Commission members and allows for per diem reimbursement of travel expenses related to the work of the Commission.

Section 7: Executive Director

Section 7 provides for the appointment and compensation of an Executive Director.

Section 8: Staff

Section 8 provides for the appointment and compensation of staff and allows for detailed staff from federal agencies.

Section 9: Contracting authority

Section 9 provides the Commission contracting authority for experts and consultants and authorizes the acquisition of personal property subject to the availability of funds. Section 9 also requires the GSA to identify suitable space for the Commission and, if none is available, allows the Commission to lease space. This section authorizes the Commission to take custody, control, and administrative jurisdiction of high value properties identified pursuant to section 12(b) and sell those properties for no less than fair market value. This section also requires the Commission, to the greatest extent practicable, to use small businesses.

The contracting authority provided in the legislation is intended to ensure the Commission is sufficiently independent. The authorization of the Commission taking custody, control, and administrative jurisdiction of the high value assets identified in the initial sales required under Section 12 are to ensure expedited sales of those properties outside of the bureaucracy of the federal agencies involved.

Section 10: Termination

Section 10 terminates the Commission in 6 years.

Section 11: Development of recommendations to the Commission

Section 11 establishes a framework for the development of initial recommendations to be reviewed and submitted to the Office of Management and Budget (OMB) and to the Commission. This section also requires the standards developed to incorporate key principles listed in section 2 and requires the recommendations to be submitted to the Commission.

The Commission is also given access to necessary property data including the age and condition, operating costs, history of capital expenditures, sustainability metrics, number of federal employees and functions, and square footage. The number of employees and square footage data will ensure the Commission can properly evaluate utilization rates. The Committee believes this data is critical to ensuring proper recommendations are developed. This data will assist the Commission in evaluating what recommendations will yield the best return to the taxpayer given costs associated with particular properties.

The Committee intends the standards be developed to maximize the reduction of the federal real property footprint and costs. The standards should result in the co-location of agencies and offices and standard utilizations rates across categories of properties such as general purpose office space. In addition, the standards should ensure the sale of property at its highest and best use. In particular, the Commission should identify high value assets for sale or redevelopment.

In the Committee's review of federal real property assets and input from the private sector, it is clear that the federal government sits on assets that are woefully under-used or under-developed. For example, it may produce more savings to the taxpayer, to relocate federal offices on under-developed property and sell or redevelop that property.

Section 12: Commission duties

Section 12 establishes general duties of the Commission as identifying opportunities for the government to reduce its inventory and reduce costs, performing an independent analysis, developing final recommendations, and conducting public hearings. This section also sets an initial time for reporting its final recommendations (and then on a regular basis thereafter) to the President. The section requires the Commission establish a website and requires the GAO to conduct reviews of the process. Additionally this section requires the Commission to recommend \$500 million in savings from the sale of high value properties in the first 180 days.

This section also requires the Commission to develop an accounting system to assist in the development of its recommendations. The intention is to ensure there is a standard accounting system to assist the Commission in developing recommendations that will produce the highest return to the taxpayer.

Section 13: Review by the President

Section 13 establishes a process for review by the President. It requires the President to send to Congress his approval or disapproval of the recommendations. If the President disapproves, the Commission is provided additional time to revise its recommendations. If the President fails to approve recommendations, the process ceases for that year. If the President approves the recommendations, they are submitted to Congress.

Section 14: Congressional consideration of the recommendations

Section 14 establishes expedited congressional procedures and timelines for consideration of a resolution of disapproval in Congress. If Congress fails to pass a resolution of disapproval within 45 days of receiving the recommendations, the recommendations gain legal force.

Section 15: Implementation of Commission recommendations

Section 15 requires agencies to carry out the recommendations. It requires all activities to be initiated within 2 years and all actions completed in 6 years, unless notice is provided to the President and Congress. The bill allows for agencies to take necessary steps to carry out the recommendations, except agencies are required to work within their existing authorities and, if necessary, work with GSA.

The Committee expects GSA to use its existing authorities in a timely manner including the authority to sell and exchange properties. In addition, to minimize costs associated with GSA staffing, H.R. 1734 requires GSA to use commission-based contracts for real estate services to assist in carrying out property transactions recommended by the Commission. The use of commission-based contracts is important in supplementing GSA's resources. These contracts will assist GSA in implementing the recommendations in a timely manner by leveraging private sector expertise and staffing.

Section 16: Authorization of appropriations

This section authorizes \$82 million for the Commission and initial costs associated with implementing any recommendations. Ad-

ditionally the bill offsets the cost by reducing GSA's construction and acquisition account by \$82 million.

The Committee expects the initial funding will facilitate the creation of the Commission and fund the initial costs to implement the recommendations. As there are often expenses to prepare properties for sale or to make them available, this is intended to cover those initial expenses. Future year funding is expected to be derived from the proceeds of property sales and redevelopments.

Section 17: Funding

Section 17 establishes an account on the books of the Treasury for the salaries and expenses of the Commission and establishes an account within the Federal Buildings Fund (FBF) to carry out actions related to the Commission recommendations. The FBF account would be funded with proceeds from any action taken pursuant to the Commission recommendations and provides that the first \$50 million of net proceeds go to the general treasury and at least 60% thereafter, with up to 40% going into to new fund to provided funding for associated costs of carrying out the Commission recommendations.

Section 18: Disposal of real properties

Section 18 waives processes that would allow for the disposal of property for less than fair value market for actions taken pursuant to the recommendations. The section clarifies that the National Environmental Policy Act (NEPA) does not apply to the decisions of the Commission and limits civil actions. This section clarifies that the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) applies and that agencies may enter into agreements to sell the property so long as the federal responsibilities under CERCLA are adhered to.

Section 19: Congressional approval of proposed projects

Section 19 amends the Public Buildings Act by requiring prospectuses for future projects, unrelated to Commission recommendations, to include a statement describing how the proposed project is consistent with principles in the Civilian Property Realignment Act.

This section is intended to ensure that future projects submitted to the Committee by GSA though the prospectus process outlined in the Public Buildings Act conform with the standards outlined in the legislation.

Section 20: Limitation on certain leasing authorities

Section 20 increases congressional oversight over leasing authorities of federal agencies. The section also requires GSA to adhere to the requirements of the Small Business Act when using commercial leasing services.

Section 21: Implementation review by GAO

Section 21 requires GAO on at least an annual basis to monitor and review the implementation activities related to the Commission recommendations.

Section 22: Realignment of real property owned or managed by the Bureau of Overseas Building Operations

Section 22 allows for properties owned by the United States overseas to be considered for the purposes of this Act. The bill requires the Department of State input and approval for any property proposed. It also restricts the Commission from making recommendations on properties overseas if not recommended by the Secretary of State.

Section 23: National Women's History Museum

Section 23 allows for the sale of property at fair market value to the Women's History Museum along Independence Avenue in Washington, D.C. for the purposes of constructing a museum.

Section 24: Facilities consolidation, savings, and efficiency

Section 24 provides for the consolidation of the National Gallery of Art (NGA) from leased space and into underutilized space adjacent to the current gallery buildings. The section requires the NGA to raise private funds to renovate the building. This section also relocates the Federal Trade Commission (FTC) to other vacant space in Washington, D.C. This section also includes an offset by reducing GSA's wellness and fitness program.

The Committee believes this section will save at least \$300 million in taxpayer dollars and at the same time make better use of a federal building. The Apex building, built 73 years ago, still houses the FTC and is located in what has become an active cultural triangle. The FTC is currently housed in three separate locations and has requested that the Committee approve new leased space of 427,000 square feet while the FTC continues to maintain the use of the Apex building.

If the FTC's proposal were approved, the FTC would have nearly 700,000 square feet for just 1,100 employees. And, with 306,000 gross square feet of space in the Apex building alone, only little more than half is usable as office space. In addition, the new leased space would include 144,000 square feet of special use space, such as hearing rooms, a child care facility, and deposition rooms, making it more likely than not that this will be a long-term lease for many functions currently housed in the Apex building, such as the child care facility. As a result, there would be even less utilization of the Apex building.

H.R. 1734 would transfer the Apex building to the NGA, a federal entity. The NGA has outgrown its facilities and is proximate to the Apex building. The NGA also has the authority to raise private capital. As such, transferring the use of the building to the NGA would attract \$200 million of private dollars to renovate the Apex building while maintaining it as a federal asset. In addition, it would open up the Apex building to the public as opposed to a few hundred federal workers and increase the utilization rate of the building by more than 30%.

The Committee believes this section would save the taxpayer at least \$300 million. It would avoid the taxpayer-funded \$140 million renovation of the Apex building and attract private dollars for the renovation. In addition, because the NGA has outgrown its existing buildings, it has had to resort to leasing space. This section would allow the NGA to move from taxpayer-funded leased space and

avoid future lease costs. The 30-year net present value of those avoided lease costs is \$145 million. Additional savings should also be realized in relocating the FTC to more efficient space.

Section 25: Additional sales and savings

Section 25 provides for the sale of underutilized property on Independence Avenue in Washington, D.C., including property currently occupied by the Department of Energy (DOE). The occupied portions of the property may only be sold if the net proceeds of the transaction, including the total costs of replacing the office space, exceed \$200 million. If a sale would fail to meet that threshold, the section provides for the sale of the portions of the property that are vacant.

DOE currently is housed in inefficient buildings located on property that is under-developed. This Committee believes several hundred million dollars can be generated for the taxpayer by selling the property and using the proceeds to provide less costly and more efficient replacement space for the DOE.

Section 26: Restriction on use of funds

Section 26 restricts the use of funds for a new courthouse in Los Angeles, California, and directs GSA to sell the land previously acquired to construct the new courthouse.

The Committee and the GAO has identified significant waste over the years on the federal courthouse construction program. Last Congress, at the request of the Subcommittee on Economic Development, Public Buildings and Emergency Management, the GAO completed a study entitled, "Federal Courthouse Construction: Better Planning, Oversight, and Courtroom Sharing Needed to Address Future Costs."⁵ The GAO provided testimony to the Subcommittee on May 25, 2010, on its findings. Specifically, the GAO examined 33 courthouses that were constructed during the ten-year period from 2000 to 2010. The GAO found that 3.56 million square feet of extra space was built, costing the taxpayer \$835 million and that the estimated cost to rent, operate, and maintain the extra space was \$51 million annually.

The primary reasons for the overbuilding include:

- 1.7 million square feet of space exceeding congressionally authorized limits;
- 887,000 square feet related to the Judiciary's overestimate of the number of judges projected at a given courthouse; and
- 946,000 square feet related to the lack of courtroom sharing among judges.

The proposal for a new courthouse in Los Angeles, California, was originally submitted to the Committee as part of GSA's FY 2001 Capital Investment Program. At that time, the federal courts in Los Angeles occupied and still occupy the two buildings—the Roybal Courthouse and Federal Building and the Spring Street Courthouse.

The Los Angeles courthouses currently house 59 judges, fewer judges than it had in 2000 and 22 fewer than last projected. At the same time, the U.S. courts have adopted a sharing policy for magistrate judges, senior judges, and bankruptcy judges. Only 21 of the

⁵ GAO-10-417.

59 judges are active district judges, meaning the remaining 38 would be covered under the sharing policy, resulting in the need for 42 courtrooms. There are 61 existing courtrooms without a new courthouse.

At a hearing held on November 4, 2011, the GAO testified that not only was a third courthouse unnecessary in Los Angeles but all of the judges could actually fit in just one—the Roybal Courthouse.

If GSA spends the available funds to construct a 24 courtroom courthouse as proposed, the Los Angeles courthouse complex would have three buildings with 85 courtrooms and 59 judges. In fact, GSA plans to abandon one courthouse (Spring Street) and demolish courtrooms in the Roybal Courthouse. As a result, the Committee believes a new courthouse in Los Angeles would result in the need for additional spending to renovate the vacated spaces for other use to bring the total costs of the project to \$700 million. The Committee believes a new courthouse in Los Angeles is not necessary and a wasteful use of scarce taxpayer dollars.

LEGISLATIVE HISTORY AND CONSIDERATION

On May 4, 2011, Representative Jeff Denham introduced H.R. 1734, a bill to decrease the deficit by realigning, consolidating, selling, disposing, and improving the efficiency of federal buildings and other civilian real property, and for other purposes.

On May 25, 2011, the Subcommittee on Economic Development, Public Buildings and Emergency Management met in open session. The Subcommittee adopted a substitute amendment and ordered the bill forwarded to the full Committee by voice vote.

On October 13, 2011, the Committee on Transportation and Infrastructure met in open session. Amendments were offered to H.R. 1734. The Committee adopted amendments to H.R. 1734, including an Amendment in the Nature of a Substitute offered by Representative Denham. The two other amendments adopted included an amendment that amended the definition of properties covered by the legislation and an amendment that provided technical corrections to H.R. 1734. H.R. 1734 was ordered reported as amended to the House by a vote of 30 to 22 with a quorum present.

HEARINGS

The Subcommittee held two hearings specifically on H.R. 1734 and several other hearings related to subject matter addressed in H.R. 1734. In particular, the Subcommittee held the following hearings:

“Sitting on Our Assets: Cutting Spending and Private Redevelopment of Underperforming Buildings” held on February 10, 2011. Witnesses included, Mr. Robert Peck, Commissioner, Public Buildings Service, General Services Administration; Mr. David J. Wise, Director, Physical Infrastructure Team, Government Accountability Office; and the Honorable Anthony J. Principi, Former Secretary, U.S. Department of Veterans Affairs, Chairman, 2005 Defense Base Realignment and Closure Commission. The hearing was held in the vacant Annex of the Old Post Office in Washington, D.C., and focused on the costs to the taxpayer of underperforming or vacant assets, models for their redevelopment or reuse, and how

spending can be reduced through private redevelopment of underperforming assets.

“Can a Civilian BRAC Commission Consolidate Federal Office Space and Save Taxpayers Billions?” held on April 6, 2011. Witnesses included the Honorable Daniel I. Werfel, Controller, Office of Management and Budget; the Honorable Martha Johnson, Administrator, General Services Administration; Mr. David J. Wise, Director, Physical Infrastructure Team, Government Accountability Office accompanied by Mr. Brian Lepore, Director, Defense Capabilities and Management Issues, Government Accountability Office; and the Honorable Anthony J. Principi, Former Secretary, U.S. Department of Veterans Affairs, Chairman, 2005 Defense Base Realignment and Closure Commission. The hearing focused on whether a civilian BRAC process can effectively consolidate federal office space, maximize value to the taxpayer, and save taxpayers billions.

“How to Stop Sitting on Our Assets: A Review of the Civilian Property Realignment Act” held on May 12, 2011. Witnesses included the Honorable Daniel Werfel, Controller, Office of Management and Budget; the Honorable Patrick Kennedy, Under Secretary for Management, Department of State; the Honorable Anthony J. Principi, Former Secretary, U.S. Department of Veterans Affairs, Chairman, 2005 Defense Base Realignment and Closure Commission; Mr. David Winstead, former Commissioner, Public Buildings Service, General Services Administration; and Mr. Michael Glosserman, Managing Partner, JBG Companies. The hearing focused on H.R. 1734 and the Administration’s proposal for establishing a civilian BRAC-like commission.

“The Securities and Exchange Commission’s \$500 Million Fleecing of America” held on June 16, 2011. Witnesses included the Honorable H. David Kotz, Inspector General, U.S. Securities and Exchange Commission; Mr. Jeff Heslop, Chief Operating Officer/Executive Director, U.S. Securities and Exchange Commission accompanied by Mr. Mark D. Cahn, General Counsel, U.S. Securities and Exchange Commission; and Ms. Elaine Clancy, Director of Leasing, National Capital Region, General Services Administration. The hearing focused on the SEC’s management of its independent authority to lease space and, in particular, issues detailed in a May 16, 2011, SEC Inspector General report related to SEC’s most recent lease procurement of 900,000 square feet of space under a 10-year lease worth over \$500 million.

“The Securities and Exchange Commission’s \$500 Million Fleecing of America: Part Two” held on July 6, 2011. Witnesses included the Honorable Mary L. Schapiro, Chairman, U.S. Securities and Exchange Commission and the Honorable H. David Kotz, Inspector General, U.S. Securities and Exchange Commission. The hearing focused on the lease the SEC entered into using its independent leasing authority and the unused space that the federal government was legally bound to rent for ten years.

“A Review and Analysis of the Proposed \$400 Million Los Angeles, California, Federal Courthouse Project” held on November 4, 2011. Witnesses included the Honorable Margaret M. Morrow, United States District Judge, U.S. District Court, Central District of California; Mr. Robert Peck, Commissioner, Public Buildings Service, General Services Administration, and Mr. Mark L. Goldstein, Director, Physical Infrastructure, Government Accountability

Office. The hearing focused on the current justification of a third courthouse in Los Angeles, California, including the size, scope, compliance with courtroom sharing guidelines, and cost implications of the entire courthouse complex in Los Angeles.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the House of Representatives requires each committee report to include the total number of votes cast for and against on each record vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against. During consideration of H.R. 1734, a total of three roll call votes were taken—two on amendments offered to the Amendment in the Nature of a Substitute and on ordering H.R. 1734, as amended, reported to the House. There were no roll call votes on two other adopted amendments or on the Amendment in the Nature of a Substitute which were adopted by voice vote. The three roll call votes were dispensed with as follows:

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
 FULL COMMITTEE – ROLL CALL
 U.S. HOUSE OF REPRESENTATIVES – 112TH CONGRESS

Number of Members: (33/26) Quorum: 30 Working Quorum: 20

Date: 10/13/2011 Presiding: Mica

Amendment or matter voted on: Norton Amendment (94) to Denham Amendment in the Nature of a Substitute
 Vote: 18-25

	Yea	Nay	Present		Yea	Nay	Present
Mr. Mica		X		Mr. Larsen	X		
Mr. Rahall	X			Mr. Lipinski	X		
Mr. Altmire				Mr. LoBiondo		X	
Mr. Barletta				Mr. Long		X	
Mr. Bishop	X			Mr. Mehan		X	
Mr. Boswell	X			Mr. Michaud	X		
Ms. Brown	X			Mr. Miller (CA)		X	
Dr. Bucshon		X		Ms. Miller (MI)		X	
Ms. Capito		X		Mr. Nadler			
Mr. Capuano				Mrs. Napolitano	X		
Mr. Carnahan				Ms. Norton	X		
Mr. Coble		X		Mr. Petri		X	
Mr. Cohen				Mr. Ribble		X	
Mr. Costello	X			Ms. Richardson			
Mr. Cravaack		X		Ms. Schmidt		X	
Mr. Crawford		X		Mr. Shuler	X		
Mr. Cummings				Mr. Shuster		X	
Mr. DeFazio	X			Mr. Sires	X		
Mr. Denham		X		Mr. Southerland			
Mr. Duncan				Mr. Walz	X		
Ms. Edwards	X			Mr. Young			
Mr. Farenthold							
Mr. Filner							
Mr. Fleischmann		X					
Mr. Gibbs		X					
Mr. Graves		X					
Mr. Guinta		X					
Mr. Hanna		X					
Dr. Harris		X					
Mrs. Herrera Beutler		X					
Ms. Hirono	X						
Mr. Holden	X						
Mr. Hultgren		X					
Mr. Hunter							
Mr. Johnson (IL)							
Ms. Johnson (TX)	X						
Mr. Landry							
Mr. Lankford		X					

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
 FULL COMMITTEE – ROLL CALL
 U.S. HOUSE OF REPRESENTATIVE – 112TH CONGRESS

Number of Members: (33/26) Quorum: 30 Working Quorum: 20
 Date: 10/13/2011 Presiding: Mica
 Amendment or matter voted on: Norton Amendment (95) to Denham Amendment in the Nature of a Substitute
 Vote: 21-27

	Yeas	Nays	Present		Yeas	Nays	Present
Mr. Mica		X		Mr. Larsen	X		
Mr. Rahall	X			Mr. Lipinski	X		
Mr. Altmire				Mr. LoBiondo		X	
Mr. Barletta				Mr. Long		X	
Mr. Bishop	X			Mr. Meehan		X	
Mr. Boswell	X			Mr. Michaud	X		
Ms. Brown	X			Mr. Miller (CA)		X	
Dr. Bucshon		X		Ms. Miller (MI)		X	
Ms. Capito		X		Mr. Nadler			
Mr. Capuano	X			Mrs. Napolitano	X		
Mr. Carnahan				Ms. Norton	X		
Mr. Coble		X		Mr. Petri		X	
Mr. Cohen				Mr. Ribble		X	
Mr. Costello	X			Ms. Richardson	X		
Mr. Cravaack		X		Ms. Schmidt		X	
Mr. Crawford		X		Mr. Shuler	X		
Mr. Cummings	X			Mr. Shuster		X	
Mr. DeFazio	X			Mr. Sires	X		
Mr. Denham		X		Mr. Southerland		X	
Mr. Duncan				Mr. Walz	X		
Ms. Edwards	X			Mr. Young			
Mr. Farenthold							
Mr. Filner							
Mr. Fleischmann		X					
Mr. Gibbs		X					
Mr. Graves		X					
Mr. Guinta		X					
Mr. Hanna		X					
Dr. Harris		X					
Mrs. Herrera Beutler		X					
Ms. Hirono	X						
Mr. Holden	X						
Mr. Hultgren		X					
Mr. Hunter		X					
Mr. Johnson (IL)							
Ms. Johnson (TX)	X						
Mr. Landry							
Mr. Lankford		X					

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
 FULL COMMITTEE – ROLL CALL
 U.S. HOUSE OF REPRESENTATIVE – 112TH CONGRESS

Number of Members: (33/26) Quorum: 30 Working Quorum: 20
 Date: 10/13/2011 Presiding: Mica
 Amendment or matter voted on: Ordering H.R. 1734 reported
 Vote: 30-22

	Yeas	Nays	Present		Yeas	Nays	Present
Mr. Mica	X			Mr. Larsen		X	
Mr. Rahall		X		Mr. Lipinski		X	
Mr. Altmire				Mr. LoBiondo	X		
Mr. Barletta	X			Mr. Long	X		
Mr. Bishop		X		Mr. Meehan	X		
Mr. Boswell		X		Mr. Michaud		X	
Ms. Brown		X		Mr. Miller (CA)	X		
Dr. Bucshon	X			Ms. Miller (MI)	X		
Ms. Capito	X			Mr. Nadler			
Mr. Capuano		X		Mrs. Napolitano		X	
Mr. Carnahan		X		Ms. Norton		X	
Mr. Coble	X			Mr. Petri	X		
Mr. Cohen				Mr. Ribble	X		
Mr. Costello		X		Ms. Richardson		X	
Mr. Cravaack	X			Ms. Schmidt	X		
Mr. Crawford	X			Mr. Shuler		X	
Mr. Cummings		X		Mr. Shuster	X		
Mr. DeFazio		X		Mr. Sires		X	
Mr. Denham	X			Mr. Southerland	X		
Mr. Duncan				Mr. Walz		X	
Ms. Edwards		X		Mr. Young			
Mr. Farenthold	X						
Mr. Filner							
Mr. Fleischmann	X						
Mr. Gibbs	X						
Mr. Graves	X						
Mr. Guinta	X						
Mr. Hanna	X						
Dr. Harris	X						
Mrs. Herrera Beutler	X						
Ms. Hirono		X					
Mr. Holden		X					
Mr. Hultgren	X						
Mr. Hunter	X						
Mr. Johnson (IL)	X						
Ms. Johnson (TX)		X					
Mr. Landry	X						
Mr. Lankford							

COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and is included in the report. Such a cost estimate is included in this report.

PERFORMANCE GOALS AND OBJECTIVES

With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goals and objectives of this legislation is to decrease the deficit by realigning, consolidating, selling, disposing of, and improving the efficiency of federal buildings and other civilian real property, and for other purposes.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirement 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 enclosed cost estimate for H.R.1734 from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, December 8, 2011.

Hon. JOHN L. MICA,
*Chairman, Committee on Transportation and Infrastructure,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1734, the Civilian Property Realignment Act.

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

ROBERT A. SUNSHINE
(For Douglas W. Elmendorf, Director).

Enclosure.

H.R. 1734—Civilian Property Realignment Act

Summary: H.R. 1734 would establish the Civilian Property Realignment Commission (CPRC) to better manage federal buildings and facilities. In addition to giving the commission broad new authorities to consolidate, dispose of, or sell some government properties, the bill would require the commission to sell over the next year at least five civilian facilities that have a combined estimated fair market value of at least \$500 million.

The legislation also would direct the General Services Administration (GSA) to:

- Transfer the Washington, D.C., headquarters building of the Federal Trade Commission (FTC) to the National Gallery of Art (NGA) and move FTC offices to a privately owned building that has already been leased by the federal government;
- Enter into agreements with the National Women's History Museum (a private corporation) to sell to the museum a specific parcel of federal land;
- Study the possible sale of specific portions of the Department of Energy's (DOE's) headquarters building in Washington, D.C., and to complete that sale if GSA determines DOE offices could be relocated while still allowing for a net gain to the government of at least \$200 million; and
- Sell certain property that the agency acquired to build a federal courthouse in Los Angeles, California, and terminate the courthouse project.

CBO estimates that enacting H.R. 1,734 would result in direct spending savings of \$565 million over the 2012–2016 period and \$595 million over the 2012–2021 period, primarily from ending the courthouse project. Enacting H.R. 1734 would not affect revenues. Because the legislation would affect direct spending, pay-as-you-go procedures apply.

In addition, CBO estimates that implementing the bill would add almost \$200 million to discretionary spending over the 2012–2016 period, assuming appropriation of the necessary funds, primarily for the operations and functions of the new commission. After 2016, the need for discretionary funds to operate and maintain certain federal buildings and facilities could be reduced if the commission is successful in carrying out its mission to better manage federal property.

H.R. 1734 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 1734 over the 2012–2016 period is shown in the following table. The costs of this legislation fall within all budget functions that contain facilities and properties other than 050 (national defense).

	By fiscal year, in millions of dollars—					
	2012	2013	2014	2015	2016	2012–2016
CHANGES IN DIRECT SPENDING						
Sale of High-Value Federal Assets: ^a						
Estimated Budget Authority	0	–129	–129	52	42	–164
Estimated Outlays	0	–129	–129	52	42	–164
Sale of Property to the Women's History Museum:						
Estimated Budget Authority	0	0	–50	0	0	–50
Estimated Outlays	0	0	–50	0	0	–50
Sale of the Cotton Annex:						
Estimated Budget Authority	0	–100	0	0	0	–100
Estimated Outlays	0	–100	0	0	0	–100
Terminate Los Angeles Courthouse Project: ^b						
Estimated Budget Authority	0	0	–20	0	0	–20
Estimated Outlays	0	–15	–53	–73	–110	–251
Total Changes: ^c						
Estimated Budget Authority	0	–229	–199	52	42	–334
Estimated Outlays	0	–244	–232	–21	–68	–565

	By fiscal year, in millions of dollars—					
	2012	2013	2014	2015	2016	2012–2016
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Biannual CPRC Recommendations:						
Estimated Authorization Level	97	15	15	15	15	157
Estimated Outlays	39	41	39	19	19	157
Transfer FTC Building to NGA:						
Estimated Authorization Level	8	40	7	–7	–7	41
Estimated Outlays	8	40	7	–7	–7	41
Total Changes:						
Estimated Authorization Level	105	55	22	8	8	198
Estimated Outlays	47	81	46	12	12	198

Note: CPRC = Civilian Property Realignment Commission; FTC = Federal Trade Commission; NGA = National Gallery of Art.

^a Provisions to sell high-value federal assets would reduce direct spending by about \$60 million over the 2012–2021 period, CBO estimates.

^b CBO estimates that ending the courthouse project and selling the building site would reduce direct spending by \$386 million over the next 10 years.

^c Over the 2012–2021 period, CBO estimates that enacting H.R. 1734 would reduce direct spending by \$595 million.

Basis of estimate: For this estimate, CBO assumes that the legislation will be enacted in fiscal year 2012, that the funds authorized to be appropriated to the commission will be provided, and that spending will follow historical patterns for similar management efforts. This cost estimate is based on information from the Federal Real Property Inventory database that is maintained by GSA, on other specific information provided by GSA and other agencies that manage federal properties, and on budgetary information reported by the Department of Defense (DoD) regarding its experiences with the Base Realignment and Closure (BRAC) initiative begun in 1988.

Sections 1 through 22 of the legislation would create the CPRC and establish its authorities and responsibilities; the remaining sections would direct GSA to undertake actions regarding specific properties in Washington, D.C., and Los Angeles, California. CBO's estimate of the impact those provisions would have on direct spending and spending that is subject to appropriation are described below.

Civilian property and realignment commission

H.R. 1734 would establish an independent commission, similar to the commission that implemented the BRAC process, with the aim of better managing the inventory of federal civilian real property. Following procedures specified in the bill, including getting input from GSA and other federal agencies, the commission would make recommendations to the President for selling, exchanging, consolidating, or redeveloping federal property. If approved, those recommendations would be implemented unless the Congress enacted legislation to disapprove them. Under the bill, the eight-member CPRC would terminate after six years.

H.R. 1734 would specify two major objectives for the CPRC. First, within one year of the date of the legislation's enactment, section 12 would require the commission to identify and recommend the sale of a minimum of five high-value federal properties with an estimated total fair market value of at least \$500 million. CBO estimates that auctioning high-value properties as specified in the bill would result in additional net budgetary savings of \$164 million over the 2013–2016 period and \$60 million over the 2013–2021 period.

Second, the legislation would require the CPRC to make bianual recommendations of property that could be sold, disposed of, transferred, exchanged, consolidated, reconfigured, redeveloped, or used to co-locate agency operations in order to improve the cost-effectiveness of managing the inventory of civilian real property.

CBO estimates that implementing those recommendations would cost \$157 million over the 2012–2016 period, assuming appropriation of the necessary amounts. Those costs include: \$20 million that would be specifically authorized to be appropriated to cover the CPRC’s expenses and \$62 million for the proposed Asset Proceeds and Space Administration Fund, which would be used to pay the upfront costs of reorganizing agency operations. The estimated cost also includes \$15 million annually for other federal agencies to support the CPRC’s work.

Direct Spending Savings from Sale of High-Value Federal Assets. H.R. 1734 would require the CPRC to identify and recommend for sale a minimum of five federal properties with a combined market value of \$500 million. The properties that might be identified for sale are not specified, and CBO has no information about which properties would ultimately be chosen. Under the bill, they could not be excess or surplus to the government’s needs and would have to be sold in just over one year. Agencies would be relocated after the sale of each facility using sale proceeds to cover those costs, with private purchasers taking possession some time later. Under H.R. 1734, 40 percent of the proceeds from those sales could be spent by the CPRC to cover costs associated with implementing its recommendations.

Based on information from private developers, CBO expects that some private purchasers would be unlikely to pay the full fair-market price for properties if they would have to wait months or years before taking possession of them. However, while time-consuming, this process—under which valuable government assets are offered for sale and then a portion of the proceeds are used to pay the cost of rearranging government operations before the new owner can take control of the asset—has been used before. For example, portions of the electromagnetic spectrum used for communications by DoD and other federal agencies have been sold to private-sector users using a similar process. Those purchasers have agreed to delay using those portions of the spectrum until federal agencies can acquire new communications equipment to adjust their use of the spectrum.¹

Three factors would determine the net savings from the sale of the assets required under H.R. 1734:

- First, because private owners could not take immediate possession of the federal buildings they purchase, CBO expects offers to buy those buildings would be discounted by around 20 percent—or \$100 million on properties with a market value of \$500 million;
- Second, based on information from GSA and the Office of Management and Budget about the costs of government real estate transactions and relocating federal operations to new or renovated facilities, we estimate that about three-quarters—or

¹This funding process was outlined in the Commercial Spectrum Enhancement Act, Public Law 108–94.

\$300 million—of the sales proceeds would be absorbed by relocation costs, direct costs incurred by GSA or the landholding agencies, and real estate commissions; and

- Third, under the legislation, of the remaining proceeds—\$100 million—40 percent could be spent by the commission, without further appropriation, on other activities, and the remainder—about \$60 million—would be deposited into the Treasury.

The amount of proceeds could vary significantly from this estimate, depending on the particular properties identified by the CPRC and the method chosen to relocate government operations.²

Discretionary Spending for Developing Biannual CPRC Recommendations. During its six-year term, the CPRC would work with GSA and other civilian agencies that have authority to manage real property to develop lists of properties that could be sold, disposed of, transferred, exchanged, consolidated, reconfigured, redeveloped, or used to co-locate agency operations. The bill would authorize the appropriation of \$82 million for those purposes, and CBO estimates that federal agencies would need another \$75 million over the next five years to help the commission develop recommendations to improve the management of federal properties, resulting in a total discretionary cost of \$157 million over the next five years.

The sale, transfer, or disposal of federal property would lead to a reduction in the need for appropriated funds to maintain and improve federal properties. The Government Accountability Office has reported that operation and maintenance costs typically account for between 60 percent and 85 percent of the lifetime costs of owning a building.³ Some of those amounts would be eliminated even if the proceeds from selling or transferring a particular property were negligible.

In 2009, government agencies, including DoD, reported that they spent about \$1.7 billion to operate about 45,000 underutilized federal buildings and about \$0.3 billion to operate about 10,000 buildings classified as excess.⁴ Some of those buildings are only slightly underutilized, and some of the space characterized as underutilized is not readily usable. Still, restructuring building occupancy to increase utilization of some facilities so that others could be disposed of and disposing of excess properties would eliminate some annual operating costs and thus reduce future spending if appropriations were reduced by corresponding amounts. However, most of such savings would have to come from consolidating existing operations and disposing of buildings that are currently being used.

²Although not required by the legislation, this estimate assumes that the high-value properties identified by the CPRC would be sold at auction to the highest bidder and that whatever properties are sold would be redeveloped for nonfederal use. If the properties were sold through arranged sales to private developers with the intent of entering into agreements with those developers to lease properties after improvements are made, the budgetary impact would probably be a cost and not a savings. Such arrangements are sometimes used by federal agencies under current law as an alternative way to finance the construction of improvements and enhancements to federal properties. Typically, such leasing agreements are more costly than seeking appropriated funds to finance such improvements.

³Government Accountability Office, Opportunities to Reduce Potential Duplication in Government Programs. Save Tax Dollars, and Enhance Revenue, GAO-11-318SP (March 2011), p. 222, <http://gao.gov/new.items/d11318sp.pdf>.

⁴The Federal Real Property Council. FY 2009 Federal Real Property Statistics (September 2010), p.8.

Over the 2012–2016 period, however, CBO does not expect that transactions undertaken as a result of the CPRC’s recommendations would result in any significant net savings in annual operating costs for federal civilian facilities. Prior experience in this area—particularly DoD’s experience with BRAC—suggests that efforts to reduce costs by increasing the efficiency of property use typically require significant spending up front to rebuild or relocate facilities before savings can be realized. Those savings would take the form of reduced need for annual appropriations to operate federal facilities. For BRAC, those upfront costs were covered primarily by increases in annual appropriations. Information from DoD indicates that the first four rounds of BRAC base closings had a net cost of \$22 billion over 10 years.⁵

Without similar upfront resources or some other way to implement its recommendations, CBO expects that the CPRC would struggle to make a measurable change in the long-term costs of operating and maintaining federal civilian properties. In CBO’s judgment, the opportunity to generate upfront resources from the ongoing sale of excess federal properties for substantial sums is not supported by the historical record of such sales.⁶ Although the federal government sells property on an ongoing basis, the net budgetary impact is quite small. Net proceeds from the sale of civilian real property varies from year to year but has totaled about \$70 million over the past five years.⁷ Opportunities to sell more valuable properties that are not considered excess to the federal government’s needs exist. However, as explained above under the discussion on high-value property sales, the net savings from such transactions would be diminished by federal rebuilding or relocation costs.

Directives to GSA regarding properties in Washington, D.C., and Los Angeles

Enacting the remaining sections of H.R. 1734 would yield direct spending savings of almost \$520 million over the 2012–2021 period, CBO estimates. Assuming appropriation of the necessary amounts, CBO also estimates that implementing those sections would cost about \$40 million in discretionary funds over the next five years. Specifically, those provisions would require GSA to:

- Transfer the Washington, D.C., headquarters building of the Federal Trade Commission to the National Gallery of Art and move FTC offices to a privately owned building that has already been leased by the federal government;

⁵ DoD budget information indicates that the most recent BRAC round (2005) had a five-year net cost of about \$30 billion and an estimated ten-year net cost of almost \$20 billion. Over the past 20 years, more than 350 military installations have been sold or conveyed to nonfederal entities through the 13RAC process. Proceeds from sales have amounted to about \$1 billion—an average of less than \$50 million a year.

⁶ According to information from GSA, the government has engaged in almost 1,400 transactions involving disposal of civilian property over the past 10 years in some way other than destruction. Of those, about 125 properties have been transferred to another federal agency; almost 235 have been made available through public benefit conveyances for nominal amounts; 84 were conveyed through negotiated sales to state and local governments; and the majority of properties, almost 950, were disposed of through public sale.

⁷ Many of the largest civilian landholding agencies (excluding the Department of the Interior), such as the Departments of Veterans Affairs, the Treasury, and Energy, as well as GSA, already have authorities under current law to enter into enhanced-use leases with the private sector, which often prove more lucrative than sales. Those arrangements allow agencies to lease underused land and facilities for cash or in-kind services; the agencies thereby secure private financing—outside the appropriations process—for construction or renovations of buildings, power plants, and other infrastructure for the agencies’ use.

- Enter into agreements with the National Women's History Museum (a private corporation) to sell to the museum a specific parcel of federal land;
- Study the possible sale of specific portions of the Department of Energy's headquarters building in Washington, D.C., and to complete that transaction if GSA determines offices currently occupying that space could be relocated while allowing for a net gain to the government of \$200 million or more; and
- Sell certain property that the agency acquired to build a federal courthouse in Los Angeles, California, and terminate the courthouse project.

Transfer FTC building to NGA. H.R. 1734 would direct GSA to transfer the FTC headquarters building to the NGA by December 31, 2012. The building would be renamed the North Building of the National Gallery of Art. Under this bill, after the transfer, employees of the FTC Headquarters building would be relocated to leased space in a privately owned building (Constitution Center, located at 400 7th Street, S.W., in Washington, D.C.).

Assuming appropriation of the necessary funds, CBO estimates that implementing this provision would cost \$41 million over the 2012–2016 period, mostly for relocating the FTC. That estimate is net of savings from terminating certain NGA office leases and reflects the assumption that the FTC would occupy office space that is currently being leased by the Securities and Exchange Commission (SEC) and that would otherwise remain vacant for at least the next year. The SEC and GSA are currently considering alternative uses for the space, which the SEC leased but no longer requires. It is possible that the lease for the portion of Constitution Center affected by this bill will be terminated or used by another federal agency before the FTC could be relocated under H.R. 1734 late in calendar year 2012. If Constitution Center were not available, GSA would need to build or lease space for the agency.

National Gallery of Art. The NGA is housed primarily in two buildings on the Mall (the West and East Buildings) that were presented as gifts to the United States from private donors in 1941 and 1978. The NGA currently has two leases for office space and a service agreement to store artwork in other buildings. According to the NGA, more space will be needed in the future to accommodate additional administrative staff and to display and store additional artwork.

Under H.R. 1734, CBO expects that the NGA would move some of its administrative staff into the FTC building in 2013 and begin to redesign the building's interior for its use. We estimate that the NGA would spend about \$20 million over the 2015–2016 period, primarily for moving costs, initial design work, and office equipment. Those costs would be more than offset by savings from ending two of the NGA's leases for administrative office space. Under current law, those leases will cost about \$7 million over the 2014–2016 period and could be terminated if the NGA were able to use the FTC building for administrative offices without significant modifications. On balance, CBO estimates that net savings to the NGA would total about \$2 million over the next five years, assuming future appropriations to the agency are reduced because of its lower operating costs under the bill.

The bill specifies that, after transfer of the building from the FTC to the NGA, all initial costs of remodeling, renovating, and reconstructing it would be funded by private donations. The NGA estimates that it would cost at least \$150 million to modify the structure, mostly to create new areas to display art; those costs do not include other possible improvements to the area, such as a tunnel from the new facility to the East and West Buildings.

Although H.R. 1734 states that initial modification costs may not come from appropriated funds, it is unclear whether the NGA could attract sufficient donations from private individuals to cover those costs. Since the original buildings were donated to the NGA, all renovations and repairs to those facilities have been completed with appropriated funds. For example, the NGA is midway through a large renovation project that was begun in 1999 and has involved more than \$140 million worth of improvements, primarily to the West Building. The NGA is also working on an \$85 million project to repair the exterior marble veneer of the East Building. Both projects are being undertaken using appropriated funds.

Federal Trade Commission. After the transfer of the FTC headquarters building to the National Gallery of Art, H.R. 1734 would direct GSA to relocate FTC employees from the current headquarters building to leased space at a specified location (a portion of Constitution Center). That location is currently under a 10-year lease entered into by the Securities and Exchange Commission in July 2010. However, the SEC has no plans to use the space that the FTC would occupy.

According to the FTC, the commission's headquarters building houses more than 700 employees, contractors, and children (in a day care center). Based on information from GSA and the FTC, CBO estimates that reconfiguring the space, relocating the employees from the FTC headquarters to Constitution Center, and installing furniture, computers, and telecommunications equipment would cost \$42 million over the 2012–2016 period, assuming appropriation of the necessary amounts.

After the current 10-year lease for space in Constitution Center expires, the FTC headquarters employees would still need office space. At that time, GSA would need to build a new headquarters facility or enter into a long-term lease of space in Constitution Center or another privately owned facility.

Sale of Property to Women's History Museum. Section 23 would authorize the sale of federal property near the intersection of 12th Street and Independence Avenue, S.W., in Washington, D.C., to the Women's History Museum Corporation. (Section 25 would also allow the Women's Museum right of first refusal on the western portion of the Forrestal building on Independence Avenue in Washington, D.C.) The legislation would direct GSA to complete the conveyance within three years. Under the bill, no federal funds could be used to purchase the site or to design and construct a museum on the site; the property would revert to the federal government if the corporation uses it for any purpose other than a museum or fails to commence work on the museum within five years after enactment of H.R. 1734. Net proceeds from the sale would be deposited into the Federal Buildings Fund, and spending of those funds would be subject to future appropriation.

GSA currently controls the property near the intersection of 12th Street and Independence Avenue, S.W., which consists primarily of a small parking lot; the agency reports that it has no plans to declare the property excess to its needs. Thus, under current law, CBO does not expect that the property would be conveyed for a public purpose or sold over the next 10 years.

An assessment of the property's value has not yet been completed. That assessment would consider a variety of factors, including the property's highest and best use, the presence of any hazardous substances or zoning restrictions on the site, and a final land survey. Based on recent property sales in the District of Columbia, CBO estimates that net proceeds from this sale would total about \$50 million in 2014. That sale would be recorded in the budget as a reduction in direct spending of \$50 million in 2014.

Consider Sale of a Portion of the Department of Energy Headquarters Building. Section 25 would require GSA to determine whether it could sell most of the Forrestal Building (DOE headquarters located on Independence Avenue in Washington, D.C.) and build a new federally owned facility to house the relocated DOE employees while still realizing estimated net proceeds of at least \$200 million from the sale. If GSA believes such a transaction were possible, the Women's History Museum would have the right of first refusal to purchase a specified portion of the Forrestal building.

If the Forrestal Building is sold, the bill would prohibit the federal government from leasing back any portion of the building, including during the period of time required to design and construct the new DOE facility and relocate the agency. Based on information from GSA, the National Capitol Planning Commission, and private developers, CBO expects that proceeds from the sale would be significantly diminished by the timing and special financing that would be required for the sale because of that prohibition and the need to expend sales proceeds to relocate the agency. Thus, CBO estimates that net receipts would be less than \$200 million and therefore that GSA would not sell the Forrestal property.

Sale of the Cotton Annex. If the Forrestal property was not sold, the legislation would allow the Cotton Annex to be sold; the Cotton Annex is a building roughly bounded by 12th Street, Independence Avenue, Maryland Avenue, the Forrestal Building, and L'Enfant Plaza in southwest Washington, D.C. An assessment of the value of the Cotton Annex property has not been completed, but based on recent property sales in Washington, CBO expects that proceeds would probably be around \$100 million.⁸ Under the bill, those proceeds from the sale would be deposited into the Federal Buildings Fund, and spending of those funds would be subject to future appropriation. For this estimate, CBO assumes that the property would be sold in 2013.

Terminate the Los Angeles Courthouse Project. In 2000, the Congress authorized GSA to begin designing a new courthouse in downtown Los Angeles and has appropriated about \$400 million for the project. GSA spent \$34 million to design the courthouse, pur-

⁸ That estimate reflects the assumption that the Cotton Annex would be sold at public auction for cash and that the government would not lease back the property. If the property is sold to the private sector and leased back to the government, the budget might record a cost from the sale rather than a savings, depending on the terms of the lease.

chase a building site, and prepare the site. Under current law, CBO expects construction will begin in fiscal year 2013. Section 26 would prohibit GSA from using already appropriated funds to construct the new courthouse; thus, CBO estimates that enacting this provision would reduce spending by \$366 million (the appropriated amount that remains unspent) over the 2014–2019 period. (Because that savings would result from enactment of this legislation, it would be recorded as a reduction in direct spending for pay-as-you-go purposes.)

In addition, the section would require GSA to sell the Los Angeles building site at fair market value. CBO estimates that the proceeds from the sale of the property would be about \$20 million in fiscal 2014. Net proceeds from the sale would be deposited into the Federal Buildings Fund, and spending of those proceeds would be subject to future appropriation.

CBO estimates that total savings from ending the courthouse project and selling the site would be \$386 million over the 2012–2021 period.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays that are subject to those pay-as-you-go procedures are shown in the following table. Enacting the legislation would have no effect on revenues.

CBO ESTIMATE OF THE STATUTORY PAY-AS-YOU-GO EFFECTS FOR H.R. 1734, THE CIVILIAN
PROPERTY REALIGNMENT ACT, ORDERED REPORTED ON OCTOBER 13, 2011

	By fiscal year, in millions of dollars—											
	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2012– 2016	2012– 2021
NET INCREASE OR DECREASE (–) IN THE DEFICIT												
Statutory Pay-As-You-Go Impact	0	–244	–232	–21	–68	–51	3	18	0	0	–565	–595

Intergovernmental and private-sector impact: H.R. 1734 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Estimate prepared by: Federal spending: Matthew Pickford and Ryan Miller; Impact on state, local, and tribal governments: Elizabeth Cove Delisle; Impact on the private sector: Paige Piper/Bach.

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

ADVISORY OF EARMARKS

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee is required to include a list of congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives. No provision in the bill includes an earmark, limited tax benefit, or limited tariff benefit under clause 9(e), 9(f), or 9(g) of rule XXI.

FEDERAL MANDATE STATEMENT

The Committee adopts as its own the estimate of federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the “Unfunded Mandates Reform Act” (P.L. 104–4).

PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt state, local, or tribal law. The Committee states that H.R. 1734 does not preempt any state, local, or tribal law.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act are created by this legislation.

APPLICABILITY OF LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (P.L. 104–1).

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 omitted 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

* * * * *

SUBTITLE II—PUBLIC BUILDINGS AND WORKS

* * * * *

PART A—GENERAL

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CHAPTER 33—ACQUISITION, CONSTRUCTION, AND ALTERATION

Sec.

3301. Definitions and nonapplication.

* * * * *

3317. *Limitation on leasing authority of other agencies.*

* * * * *

§ 3307. Congressional approval of proposed projects

(a) * * *

(b) TRANSMISSION TO CONGRESS OF PROSPECTUS OF PROPOSED PROJECT.—To secure consideration for the approval referred to in subsection (a), the Administrator of General Services shall transmit to Congress a prospectus of the proposed facility, including—

(1) * * *

* * * *

(6) a statement of rents and other housing costs currently being paid by the Government for federal agencies to be housed in the building to be constructed, altered, or acquired, or the space to be leased; [and]

(7) with respect to any prospectus for the construction, alteration, or acquisition of any building or space to be leased, an estimate of the future energy performance of the building or space and a specific description of the use of energy efficient and renewable energy systems, including photovoltaic systems, in carrying out the project[.]; and

(8) a statement of how the proposed project is consistent with section 11(b) of the Civilian Property Realignment Act.

* * * *

§ 3317. Limitation on leasing authority of other agencies

(a) IN GENERAL.—Notwithstanding any other provision of law, no executive agency may lease space for the purposes of a public building as defined under section 3301, except as provided under section 585, and the provisions in this chapter.

(b) PUBLIC BUILDING.—For the purposes of this section, the term “public building” shall include leased space.

(c) FURTHER EXCLUSIONS.—This section shall not apply to—

(1) properties that are excluded for reasons of national security by the President; and

(2) properties of the Department of Veterans Affairs.

(d) CONSTRUCTION.—Nothing in this section shall be construed as creating new authority for executive agencies to enter into leases or limit the authority of the Administration under section 3314.

* * * *

MINORITY VIEWS

We agree with our Republican colleagues on the need to address the management of Federal real property. In fact, in the 110th and 111th Congresses, the House, under Democratic leadership, held over 15 hearings on the management of the General Services Administration (GSA) Public Building Service (PBS) real estate portfolio that encouraged GSA to move forward on the redevelopment of several underutilized properties, to sell properties where appropriate, and to be more decisive in its management of its real estate portfolio. Because of our interest in such improvements, an interest also reflected in President Obama's Fiscal Year 2012 budget priorities, it had been our hope that H.R. 1734, "The Civilian Property Realignment Act," would provide for a sustained commitment to these priorities, and we looked forward to working with our Republican colleagues this Congress in a bipartisan manner to swiftly pass this legislation. Regrettably, H.R. 1734, as amended and ordered reported on a vote of 30–22, fails to reflect those mutual goals.

In addition, we are deeply concerned that H.R. 1734 includes provisions that extinguish the claims of homeless providers on Federal properties and eliminates environmental review as a consideration of the Civilian Property Realignment Commission when making decisions concerning the realignment and disposal of Federal property. H.R. 1734 also includes several controversial provisions, including the transfer of the Apex building in Washington, DC, from GSA to the National Gallery of Art, the sale of the Department of Energy Headquarters in Washington, DC, and the termination of the Los Angeles, California, courthouse construction project. Moreover, we believe the controversial aspects of this legislation will seriously jeopardize the enactment of legislation needed to "rightsize" the Federal real estate inventory.

I. HOMELESS PROVIDER RIGHTS AND OTHER PUBLIC BENEFIT CONVEYANCES

We are concerned that the bill eliminates a review of the suitability of Federal property for use by homeless providers and a review of possible transfers to non-profits, local and state governments before they are disposed of through public auction. Title V of the McKinney-Vento Act (42 U.S.C. 11411) provides an exclusive right of first refusal to homeless service providers to apply to own or lease any surplus federal property at no charge. Non-profit groups, state agencies, and local governments can also apply for surplus property at less than fair market value under several public benefit conveyance provisions. The bill precludes the review of Federal property for a possible transfer to homeless providers and other public benefit conveyances by the Civilian Property Realignment Commission. By extinguishing those rights, the bill limits the

pool of Federal properties available for transfer to homeless service providers. In these difficult economic times, extinguishing this first right of refusal would be a severe blow to homeless service providers that have already had to deal with a significant downturn in charitable giving during the recent recession.

According to the National Law Center on Homelessness and Poverty (NLCHP), Title V has provided nearly 500 pieces of Federal property to homeless service providers for use as shelters, transitional and permanent housing, case management offices, food pantries, job training, mental health and substance abuse treatment facilities, and childcare centers. Further, NLCHP indicates that each year more than 2.4 million Americans benefit from the assistance provided through these otherwise vacant properties. On July 27, 2011, the NLCHP testified before the House Oversight and Government Reform Committee that, according to the U.S. Conference of Mayors 2010—Hunger and Homelessness Survey, family homelessness has skyrocketed during the recession, with unemployment and a lack of affordable housing driving a nine percent increase in the last year, a number that is expected to continue to increase.

Moreover, the bill does not require that homeless advocates or service providers be represented on the Civilian Property Realignment Commission nor that properties be reviewed for potential use to provide homeless assistance if one or more Commission members requests it. During the Committee on Transportation and Infrastructure markup of H.R. 1734 on October 13, 2011, Subcommittee on Economic Development, Public Buildings, and Emergency Management Ranking Member Eleanor Holmes Norton offered an amendment to restore a review of Federal properties for homeless service providers. Regrettably, the amendment was rejected on a vote of 21–27.

In addition to the waiver of homeless provider consideration, the bill eliminates public benefit conveyances of Federal property to non-profits, local and state governments for no consideration or less than fair market value. To qualify for a public benefit conveyance, nonprofit groups, state agencies, and local governments must express interest in a property during the surplus screening process and apply to the specific sponsoring Federal agency to acquire the surplus property for a particular public use. For example, if a city government identified a parcel of land adjacent to a state park that was determined to be surplus to the needs of the Federal Government and it was deemed unsuitable for homeless services providers, then the city government could apply for a public benefit conveyance of the land for park and recreations use. The Department of Interior, the sponsoring agency for this particular use, would then review their application. If the application was approved, GSA could transfer the property to city at no cost on the condition that the city would then be required to maintain that area as a park or recreation area in perpetuity.

Because one of the goals of the legislation is to expedite disposal, it is counterproductive to exclude public benefit conveyances. Given the sluggish economy and real estate market, the Federal Government should retain as many disposal options as possible, including public benefit conveyances. Although public conveyances do not

often result in monetary consideration, these conveyances can eliminate the costs to the government to maintain these properties and offer an additional tool to reduce the real estate footprint of the Federal Government.

II. NATIONAL ENVIRONMENTAL POLICY ACT WAIVER

We are concerned that the bill, as reported, would waive the application of the National Environmental Policy Act (NEPA) to some actions of the Commission. Section 18(b) waives compliance with NEPA for the actions of the President, the Commission, or any Federal agency, when considering any of the Commission's recommendations except during the process of property disposal and during the process of relocating functions from a property being disposed of or realigned to another location.

This provision is unnecessary because the Commission would not be considered a Federal agency for purposes of the NEPA, but the preclusion of an environmental review unnecessarily limits the ability of the Commission to consider all factors in developing recommendations. In addition, since the legislation requires any final action to realign, consolidate, or dispose of Federal real estate to be reviewed in compliance with NEPA, a full review would be appropriate considering that an inadequate review could cause serious problems later. For example, the 2005 Base Realignment Commission (BRAC) made the decision to move several Defense functions to the Mark Center in Alexandria, Virginia, without the proper consideration of the effects and need for additional infrastructure to support the thousands of workers who were moved to the area. This BRAC move to an already congested area has caused considerable disruption locally because there are not enough transportation options to sustain the influx of nearly 6,000 workers. An environmental review by the BRAC Commission may well have detected this issue and enabled it to be addressed.

The Mark Center example underscores the importance of carefully conducting an environmental review of any decision to close a facility, relocate, or re-configure a Federal facility. Unfortunately, however, the current bill precludes a full review of the actions until after a decision to sell or dispose of a piece of Federal property has already been made. During the Committee markup of the bill, Subcommittee Ranking Member Norton offered an amendment to strike this section to ensure that these Federal Government actions do not create unanticipated impacts to local communities. Regrettably, the amendment was rejected on a vote of 19–24.

III. DIRECTED REAL ESTATE SALES

We are also concerned about the directed sales and transfer of several valuable federal properties because of the lack of rigorous analysis of the potential sales and potential long-term losses to the U.S. taxpayer if Federal workers are moved out of Federally owned space to more expensive privately owned commercial space. At a time when the Federal Government should continue reducing its reliance on leased space, H.R. 1734 seeks to sell both the parcel of land where the current Department of Energy headquarters is located in the District of Columbia, as well as a parcel of land in Los Angeles, California, intended for construction of a U.S. courthouse.

The bill proposes to sell these Federal properties with no analysis conducted on whether the sales are in the best interests of the Federal Government and, thus, the U.S. taxpayer. Both the Los Angeles, California, and Washington, DC, metropolitan areas have a significant Federal presence and currently house several Federal agencies in long-term, expensive, privately leased commercial office space. By mandating the sale of these properties within a time certain, the government loses leverage in any sales transaction and the possibility of GSA using its existing authority to develop government-owned space and further relieve the need to rely on costly, privately leased commercial office space is foreclosed upon. Additionally, the bill authorizes the transfer of one Federal agency from government-owned space to leased commercial office space.

Transfer of the Apex Building

Section 24 of H.R. 1734 directs the transfer of administrative jurisdiction of the government-owned Apex Building in the District of Columbia, currently occupied by the Federal Trade Commission (FTC), to the National Gallery of Art. The bill further directs GSA to relocate the FTC to 160,000 square feet of space in a privately owned commercial office building located at 400 7th Street, S.W., in Washington, DC. The Apex building is a strong income-producing property generating sufficient funds to meet its reinvestment needs. To pay for this real estate transfer, the bill eliminates funding for the GSA energy and water retrofit and conservation program and the GSA wellness and fitness programs for fiscal years 2012 and 2013. Evicting the FTC from its headquarters and mandating that it assume office space in a privately owned building is at odds with many longstanding practices of this Committee. Historically, the Committee has made a vigorous effort to ensure that agency headquarters functions are located in government-owned space rather than leased commercial office space because leasing such space is generally significantly more expensive than housing agencies in government-owned space. In addition, prior to this bill, the Committee has never mandated the transfer of an agency to a specific, privately owned, leased space.

Section 24 of H.R. 1734 would also deprive the Federal Buildings Fund (FBF), a revolving fund used for the repair and construction of Federal buildings, of the \$6 million worth of rent that the FTC currently pays, while giving rent-free space to the National Gallery of Art. The bill expands one Federal agency at the expense of all the other agencies housed in Federally owned space. It gives the National Gallery of Art an additional 300,000 square feet with a new responsibility to renovate and maintain a third facility on the National Mall. This Committee has consistently been concerned about the ability of GSA to use funds generated by the FBF to maintain its real estate inventory and this section would further undermine the ability of GSA to maintain its inventory.

Sale of Department of Energy headquarters

Section 25 of H.R. 1734 directs GSA to sell the parcel of land currently occupied by the Department of Energy if GSA determines it can receive \$200 million in net proceeds. Proceeds from that sale would be used by GSA to provide for a building of up to 320,000

square feet of government-owned replacement space for the Department of Energy. None of the existing improvements on the property would be available for lease back to the Federal Government. The National Women's History Museum would have the first right of refusal for a portion of the parcel. This provision has had no public hearings to evaluate the merit of replacing the headquarters of the Department of Energy and it is unclear how selling this Federal property would benefit the U.S. taxpayer over the long term.

Sale of Los Angeles, CA courthouse site

Section 26 of H.R. 1734 prohibits the use of appropriated funds for constructing a new U.S. courthouse in Los Angeles, California. It also directs GSA to sell, at fair market value, any property acquired to build a new courthouse in Los Angeles.

Congress has already appropriated the funds for the Los Angeles courthouse and GSA is currently proceeding with the procurement. Implementation of this provision would stop an ongoing procurement and sell a site in a part of the country where GSA has a significant need for more Federally owned commercial office space and existing commercial office rents are among the highest in the nation. We acknowledge that the merits of the Los Angeles, CA, courthouse going forward using existing courtroom sharing guidelines are not clear and this Committee has been clear in its mandate that all new courthouse construction be reconsidered under the sharing guidelines. However, selling this site with no analysis of the commercial office space needs in Los Angeles simply does not make sense.

CONCLUSION

Although we share our Republican colleagues' desire to consolidate the real estate holdings of Federal agencies in Federally owned space, and reduce private commercial office space costs, we are concerned that H.R. 1734—which weakens environmental reviews, deprives homeless service providers of access to Federal properties, and sells two large parcels of land without any analysis of the merit of the sale—will not advance our mutual goal of making the Federal Government a better asset manager. We, therefore, oppose H.R. 1734 as reported by the Committee on Transportation and Infrastructure.

NICK RAHALL.
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