

Calendar No. 486

117TH CONGRESS
2^D SESSION**S. 2793****[Report No. 117–147]**

To authorize the Administrator of General Services to establish an enhanced use lease pilot program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 22 (legislative day, SEPTEMBER 21), 2021

Mr. PETERS (for himself, Mr. LANKFORD, Mr. HAWLEY, and Ms. SINEMA) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

SEPTEMBER 13, 2022

Reported by Mr. PETERS, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]**A BILL**

To authorize the Administrator of General Services to establish an enhanced use lease pilot program, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Saving Money and Ac-
3 celerating Repairs Through Leasing Act” or the “SMART
4 Leasing Act”.

5 **SEC. 2. ENHANCED USE LEASE PILOT PROGRAM.**

6 (a) **DEFINITIONS.**—In this section:

7 (1) **ADMINISTRATOR.**—The term “Adminis-
8 trator” means the Administrator of General Serv-
9 ices.

10 (2) **PILOT PROGRAM.**—The term “pilot pro-
11 gram” means the enhanced use lease pilot program
12 established under subsection (b).

13 (3) **RELEVANT CONGRESSIONAL COMMIT-**
14 **TEES.**—The term “relevant congressional commit-
15 tees” means—

16 (A) the Committee on Homeland Security
17 and Governmental Affairs of the Senate;

18 (B) the Committee on Environment and
19 Public Works of the Senate;

20 (C) the Committee on Oversight and Re-
21 form of the House of Representatives; and

22 (D) the Committee on Transportation and
23 Infrastructure of the House of Representatives.

24 (b) **ESTABLISHMENT.**—The Administrator may es-
25 tablish an enhanced use lease pilot program under which
26 the Administrator may authorize Federal agencies to enter

1 into a lease with any person or entity (including another
2 department or agency of the Federal Government or an
3 entity of a State or local government) with regard to any
4 underutilized nonexcess real property and related personal
5 property under the jurisdiction of the Administrator.

6 (c) MONETARY CONSIDERATION.—

7 (1) FAIR MARKET VALUE.—

8 (A) IN GENERAL.—Except as provided in
9 subparagraph (B), a person or entity entering
10 into a lease under the pilot program shall pro-
11 vide monetary consideration for the lease at fair
12 market value, as determined by the Adminis-
13 trator.

14 (B) IN-KIND CONSIDERATION.—The Ad-
15 ministrator may accept in-kind consideration
16 for leases entered into under the pilot program
17 for the purpose of developing renewable energy
18 production facilities.

19 (2) UTILIZATION.—

20 (A) IN GENERAL.—The Administrator may
21 use monetary consideration received under this
22 subsection for a lease entered into under the
23 pilot program to cover the full costs to the Ad-
24 ministration in connection with the lease.

1 ~~(B) CAPITAL REVITALIZATION AND IM-~~
 2 ~~PROVEMENTS.—Any amounts of monetary con-~~
 3 ~~sideration received under this subsection that~~
 4 ~~are not used in accordance with subparagraph~~
 5 ~~(A) shall—~~

6 ~~(i) be deposited in a working capital~~
 7 ~~account to be established by the Federal~~
 8 ~~agency engaged in the lease of the prop-~~
 9 ~~erty; and~~

10 ~~(ii) remain available until expended~~
 11 ~~for maintenance, capital revitalization, and~~
 12 ~~improvements of the real property assets~~
 13 ~~and related personal property at the Fed-~~
 14 ~~eral agency, subject to the concurrence of~~
 15 ~~the Administrator.~~

16 ~~(d) ADDITIONAL TERMS AND CONDITIONS.—The Ad-~~
 17 ~~ministrator may require such terms and conditions in con-~~
 18 ~~nection with a lease under the pilot program as the Ad-~~
 19 ~~ministrator considers appropriate to protect the interests~~
 20 ~~of the United States.~~

21 ~~(e) RELATIONSHIP TO OTHER LEASE AUTHORITY.—~~
 22 ~~The authority under the pilot program to lease property~~
 23 ~~under the jurisdiction of the Administrator is in addition~~
 24 ~~to any other authority under Federal law to lease property~~
 25 ~~under the jurisdiction of the Administrator.~~

1 (f) WAIVER.—A property leased under the pilot pro-
 2 gram shall not be subject to section 501 of the McKinney-
 3 Vento Homeless Assistance Act (42 U.S.C. 11411) before
 4 leasing the property under such pilot program.

5 (g) LEASE RESTRICTIONS.—

6 (1) NO LEASEBACK OR GUARANTEED SERVICE
 7 CONTRACT.—

8 (A) IN GENERAL.—Subject to subpara-
 9 graph (B), the Administrator may not lease
 10 back property under the pilot program during
 11 the term of the lease or enter into guaranteed
 12 service or similar contracts with the lessee re-
 13 lating to the property.

14 (B) IN-KIND CONSIDERATION LEASES.—
 15 Subparagraph (A) shall not apply to property
 16 under a lease under the pilot program in which
 17 the Administrator received in-kind consideration
 18 under subsection (c)(1)(B).

19 (2) CERTIFICATION.—The Administrator may
 20 not enter into a lease under the pilot program unless
 21 the Administrator certifies that the lease will not
 22 have a negative impact on the mission of the Admin-
 23 istrator or the applicable Federal agency.

1 ~~(3)~~ MAXIMUM NUMBER OF LEASES.—The Ad-
 2 ministrator may enter into not more than 6 leases
 3 under the pilot program during each fiscal year.

4 ~~(4)~~ DURATION OF LEASES.—The Administrator
 5 may not enter into a lease under the pilot program
 6 with a term of more than 15 years.

7 ~~(h)~~ REPORTING.—

8 ~~(1)~~ ANNUAL REPORTS.—Not later than Janu-
 9 ary 31 of each year, the Administrator shall submit
 10 to the relevant congressional committees a report on
 11 the pilot program, including—

12 ~~(A)~~ a description of each lease entered into
 13 under the pilot program, including the value of
 14 the lease, the amount of consideration received,
 15 and the use of the consideration received; and

16 ~~(B)~~ the availability and use of the funds
 17 received under the pilot program for the Ad-
 18 ministrator or the Federal agency engaged in
 19 the lease of nonexcess real property and related
 20 personal property.

21 ~~(2)~~ FINAL REPORT.—Not later than September
 22 30, 2024, the Administrator shall submit to the rel-
 23 evant congressional committees a final report on the
 24 pilot program, including a recommendation on
 25 whether the pilot program should be extended.

1 ~~(i) DURATION.—~~

2 ~~(1) IN GENERAL.—The authority to enter into~~
 3 ~~leases under the pilot program shall expire on Sep-~~
 4 ~~tember 30, 2024.~~

5 ~~(2) SAVINGS PROVISION.—The expiration under~~
 6 ~~this subsection of authority to enter into leases~~
 7 ~~under the pilot program shall not affect the validity~~
 8 ~~or term of leases or the retention of proceeds by the~~
 9 ~~Federal agency from leases entered into under the~~
 10 ~~pilot program before the expiration of the authority.~~

11 **SECTION 1. SHORT TITLE.**

12 *This Act may be cited as the “Saving Money and Ac-*
 13 *celerating Repairs Through Leasing Act” or the “SMART*
 14 *Leasing Act”.*

15 **SEC. 2. ENHANCED USE LEASE PILOT PROGRAM.**

16 *(a) DEFINITIONS.—In this section:*

17 *(1) ADMINISTRATOR.—The term “Adminis-*
 18 *trator” means the Administrator of General Services.*

19 *(2) PILOT PROGRAM.—The term “pilot program”*
 20 *means the enhanced use lease pilot program estab-*
 21 *lished under subsection (b).*

22 *(3) RELEVANT CONGRESSIONAL COMMITTEES.—*
 23 *The term “relevant congressional committees”*
 24 *means—*

1 (A) *the Committee on Homeland Security*
 2 *and Governmental Affairs of the Senate;*

3 (B) *the Committee on Environment and*
 4 *Public Works of the Senate;*

5 (C) *the Committee on Oversight and Reform*
 6 *of the House of Representatives; and*

7 (D) *the Committee on Transportation and*
 8 *Infrastructure of the House of Representatives.*

9 (b) *ESTABLISHMENT.*—*The Administrator may estab-*
 10 *lish an enhanced use lease pilot program under which the*
 11 *Administrator may authorize Federal agencies to enter into*
 12 *a lease with any person or entity (including another de-*
 13 *partment or agency of the Federal Government or an entity*
 14 *of a State or local government) with regard to any under-*
 15 *utilized nonexcess real property and related personal prop-*
 16 *erty under the jurisdiction of the Administrator.*

17 (c) *MONETARY CONSIDERATION.*—

18 (1) *FAIR MARKET VALUE.*—*A person or entity*
 19 *entering into a lease under the pilot program shall*
 20 *provide monetary consideration for the lease at fair*
 21 *market value, as determined by the Administrator.*

22 (2) *UTILIZATION.*—

23 (A) *IN GENERAL.*—*The Administrator may*
 24 *use monetary consideration received under this*
 25 *subsection for a lease entered into under the pilot*

1 *program to cover the full costs to the Adminis-*
 2 *tration in connection with the lease.*

3 *(B) CAPITAL REVITALIZATION AND IM-*
 4 *PROVEMENTS.—Any amounts of monetary con-*
 5 *sideration received under this subsection that are*
 6 *not used in accordance with subparagraph (A)*
 7 *shall—*

8 *(i) be deposited in a working capital*
 9 *account to be established by the Federal*
 10 *agency engaged in the lease of the property;*
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12 *(ii) remain available until expended*
 13 *for maintenance, capital revitalization, and*
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 6 *leasing the property under such pilot program.*

7 (g) *LEASE RESTRICTIONS.—*

8 (1) *NO LEASEBACK OR GUARANTEED SERVICE*
 9 *CONTRACT.—The Administrator may not lease back*
 10 *property under the pilot program during the term of*
 11 *the lease or enter into guaranteed service or similar*
 12 *contracts with the lessee relating to the property.*

13 (2) *CERTIFICATION.—The Administrator may*
 14 *not enter into a lease under the pilot program unless*
 15 *the Administrator certifies that the lease will not have*
 16 *a negative impact on the mission of the Adminis-*
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 23 *with a term of more than 15 years.*

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1 (1) *ANNUAL REPORTS.*—Not later than January
 2 31 of each year, the Administrator shall submit to the
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9 (B) the availability and use of the funds re-
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