

Calendar No. 558

114TH CONGRESS }
2d Session }

SENATE

{ REPORT
114-304 }

FEDERAL PROPERTY MANAGEMENT
ACT OF 2016

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 2509

TO IMPROVE THE GOVERNMENTWIDE MANAGEMENT OF FEDERAL
PROPERTY



AUGUST 30, 2016.—Ordered to be printed
Filed, under authority of the order of the Senate of July 14, 2016

U.S. GOVERNMENT PUBLISHING OFFICE

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Mr. JOHNSON, from the Committee on Homeland Security and
Governmental Affairs, submitted the following

R E P O R T

[To accompany S. 2509]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 2509) to improve the Government-wide management of Federal property, having considered the same, reports favorably thereon with an amendment and recommends that the bill do pass.

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I. PURPOSE AND SUMMARY

The purpose of S. 2509, the Federal Property Management Reform Act of 2016, is to improve the management of the Federal Government's property assets. This bill establishes a Federal Property Council that will guide and ensure implementation of property management measures and expand the duties of Federal agencies in the management and accountability of property assets under their custody and control. The bill also establishes a single, comprehensive and descriptive database of all real property under the custody and control of all Federal agencies. The bill directs agencies, including the United States Postal Service, to take additional

actions to improve the management of their properties, including by maintaining an up-to-date inventory of real property. The bill incentivizes Federal agencies to invest in real property disposals by allowing the agencies to retain the net proceeds from real property sales.

II. BACKGROUND AND THE NEED FOR LEGISLATION

The Federal Government owns and leases thousands of buildings that cost billions of dollars each year just to operate and maintain.¹ In 2003, the Government Accountability Office (GAO) first placed Federal real property management on its High-Risk List.² At that time, GAO reported that:

[M]uch of this vast and valuable asset portfolio presents significant management challenges and reflects an infrastructure based on the business model and technological environment of the 1950s. Many assets are no longer effectively aligned with, or responsive to, agencies' changing missions and are therefore no longer needed. Furthermore, many assets are in an alarming state of deterioration Compounding these problems are the lack of reliable government-wide data for strategic asset management, a heavy reliance on costly leasing instead of ownership to meet new space needs, and the cost and challenge of protecting these assets against potential terrorism.³

The Administrations of Presidents Bush and Obama have made improvements to Government-wide real property management through a series of directives. President Bush issued Executive Order 13327 in 2004, to improve the Federal Government's management of its real property assets.⁴ This executive order required each Federal agency to designate a Senior Real Property Officer to be charged with developing and implementing an agency asset management plan and with submitting a list of the agencies' real property assets to the Office of Management and Budget (OMB) or the General Services Administration (GSA) annually.⁵ The Senior Real Property Officer was also required to monitor the agency's real property assets to ensure they were "consistent with the real property asset management principles" developed under the order.⁶

The executive order established the Federal Real Property Council (FRPC) "to develop guidance for, and facilitate the success of, each agency's asset management plan."⁷ The order required the FRPC to be chaired by the Deputy Director for Management of OMB and "composed exclusively of all agency Senior Real Property Officers, the Controller of [OMB], the Administrator of [GSA] and any other full-time or permanent part-time Federal officials as deemed necessary by the Chairman of the [FRPC]."⁸ The FRPC

¹ Gov't Accountability Office, GAO-15-290, High Risk Series 135 (Feb. 2015), available at <http://www.gao.gov/assets/670/668415.pdf>.

² *Id.*

³ *Id.* at 23-24.

⁴ Exec. Order No. 13327, 69 Fed. Reg. 25, 5897 (Feb. 4, 2004).

⁵ *Id.* at 5897-98.

⁶ *Id.*

⁷ *Id.* at 5898.

⁸ *Id.*

was also charged with establishing performance measures to determine the effectiveness of Federal real property management.⁹

The executive order required GSA to “establish and maintain a single, comprehensive, and descriptive database of all real property under the custody and control of all Executive Branch agencies.”¹⁰ GSA was required to collect the information for this database from each Executive Branch agency that would “best describe the nature, use, and extent of the real property holdings of the Federal Government.”¹¹ This database is known as the Federal Real Property Profile (FRPP).¹²

In 2010, President Obama issued a new memorandum on the disposal of unneeded Federal real property assets.¹³ This memorandum directed Federal agencies “to accelerate efforts to identify and eliminate excess properties.”¹⁴ The total of agency efforts required by the memorandum:

should produce no less than \$3 billion in cost savings by the end of fiscal year 2012, yielded from increased proceeds from the sale of assets and reduced operating, maintenance, and energy expenses from disposals or other space consolidation efforts, including leases that are ended.¹⁵

Two years later, to achieve the administrative savings required by Executive Order 13589,¹⁶ OMB ordered all Federal agencies to:

not increase the size of their civilian real estate inventory. Acquisition of a new Federal building space . . . that increases an agency’s total square footage of civilian property must be offset through consolidation, co-location, or disposal of space from the inventory of that agency.¹⁷

This became known as the “Freeze the Footprint” policy.¹⁸ This policy also required each agency to develop a three-year Revised Real Property Cost Savings and Innovation Plan, which was a revision of each agency’s 2010 Real Property Cost Savings and Innovation Plan with a narrower focus, and prospective analysis of real property spending for the next three fiscal years. The policy noted that for every third year thereafter, each agency shall submit a Revised Real Property Cost Savings and Innovation plan within 120 days after the deadline for agencies to submit their data to the Federal Real Property Profile.¹⁹

⁹*Id.* at 5898–99.

¹⁰*Id.* at 5899.

¹¹*Id.*

¹²U.S. Gen. Services Admin., Federal Real Property Profile Management System, *available at* <https://www.realpropertyprofile.gov>.

¹³Memorandum on Disposing of Unneeded Federal Real Estate, 75 Fed. Reg. 115, 33987 (June 10, 2010), *available at* <https://www.whitehouse.gov/the-press-office/presidential-memorandum-disposing-unneeded-federal-real-estate>.

¹⁴*Id.*

¹⁵*Id.*

¹⁶Exec. Order No. 13589, 76 Fed.Reg. 220, 70861 (Nov. 9, 2011).

¹⁷Office of Mgmt. and Budget, Exec. Office of the President, OMB Mem. No. M–12–12, Promoting Efficient Spending to Support Agency Operations (2012), *available at* <https://www.whitehouse.gov/sites/default/files/omb/memoranda/2012/m-12-12.pdf>.

¹⁸Office of Mgmt. and Budget, Exec. Office of the President, OMB Mgmt. Procedures Mem. No. 2013–02, Implementation of OMB Memorandum M–12–12 Section 3: Freeze the Footprint (Mar. 14, 2013), *available at* <https://www.whitehouse.gov/sites/default/files/omb/financial/memos/implementation-of-freeze-the-footprint-guidance.pdf>.

¹⁹*Id.*

In 2015, the Administration issued the National Strategy for the Efficient Use of Real Property.²⁰ The National Strategy imposes three requirements for agencies to improve Federal real property management: freeze growth in the Federal real property footprint; measure the costs and utilization of real property assets; and reduce the Federal real property footprint.²¹ This strategy directs agencies to continue the Freeze the Footprint policy, to analyze their office and warehouse spaces, to improve the quality of the data they submit for the FRPP, to accelerate the disposal of excess and unutilized property, and to execute opportunities to improve space utilization.²²

GAO acknowledged in its 2015 High-Risk List that the Federal Government has demonstrated “leadership commitment to improving the management of real property by pursuing numerous reform efforts over multiple administrations.”²³ However, GAO still considers Federal real property management to be a high-risk issue area for the Government because there are still “long-standing challenges in managing its real property.”²⁴ GAO reported:

[T]he federal government continues to maintain too much excess and underutilized property. It also relies too heavily on leasing in situations where ownership would be more cost efficient in the long run [E]ffective real property management and reform are undermined by unreliable real property data. Specifically, despite a high level of leadership commitment to improve real property data, the federal government continues to face challenges with the accuracy and consistency of the [FRPP], causing the government to report inaccurate inventory and outcome information.²⁵

GAO found that while “the federal government has also made partial progress toward increasing its capacity, developing an action plan, and monitoring its progress toward improving real property management . . . significant challenges in demonstrating progress in achieving tangible results remain.”²⁶ GAO also noted that it found results from the first year of the Freeze the Footprint policy that overstated the real property portfolio reductions “to the point where some of the reported decreases do not represent any decrease at all.”²⁷

Officials from OMB, GSA, and GAO testified about these Federal real property management challenges at a Committee hearing held in June 2015.²⁸ At this hearing, GAO reiterated these challenges, stating “although multiple administrations have committed to a

²⁰ Office of Mgmt. and Budget, Exec. Office of the President, National Strategy for the Efficient Use of Real Property: Reducing the Federal Portfolio Through Improved Space Utilization, Consolidation, and Disposal (2015), available at <https://www.whitehouse.gov/sites/default/files/omb/financial/national-strategy-efficient-use-real-property.pdf>.

²¹ *Id.*

²² *Id.*

²³ GAO-15-290, High Risk Series, *supra* note 1 at 135.

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Federal Real Property Reform: How Cutting Red Tape and Better Management Could Achieve Billions in Savings: Hearing Before the S. Comm. on Homeland Sec. and Governmental Affairs, 114th Cong. (2015)*, <http://www.hsgac.senate.gov/hearings/federal-real-property-reform-how-cutting-red-tape-and-better-management-could-achieve-billions-in-savings> [hereinafter *Hearing*].

more strategic approach toward managing real property, their efforts have not yet fully addressed the underlying challenges that we have identified.”²⁹

Accurate data for agency real property holdings has long been a concern for Federal real property management. When asked about the major issues impeding the disposal of excess real property, a GAO official told the Committee:

[N]umber one . . . we really do not have a great handle on exactly what we have and how it is being used. The real property data is still a work in progress in terms of improving the FRPP. So that is number one. And I think that as a Federal manager in Washington or any other place, unless you have a really good handle on exactly what you have out there, its condition and how it is being used, it is kind of difficult to move the chess pieces in that sense.³⁰

The Public Buildings Commissioner at GSA echoed this problem, stating “[t]he bottom line is that having the right data and management tools is essential to making good decisions.”³¹ The Commissioner explained to the Committee that “I think what is most critical is to actually analyze the data and to use that to be able to have conversations with the agencies in terms of what is underutilized and what is not utilized, and really force disposition.”³²

GAO again raised concerns in a 2016 report about the quality of data in the FRPP.³³ GAO reported that FRPP guidance has various interpretations across agencies, specifically regarding a building’s condition, operating costs, and utilization.³⁴ OMB and GSA officials told GAO that “a key component of their data validation process relies on each agency to certify the information is accurate.”³⁵ GSA also now requires the agency’s Chief Financial Officer to certify the data so that it is tied to the agency’s annual financial statement audit.³⁶ However, GSA does not require agencies to describe their approach to collecting data for the FRPP, “limiting OMB and GSA’s insight into the quality of the FRPP data and the extent to which agencies are following sound and comparable collection and reporting practices.”³⁷ However, in the March 2016 report, GAO concluded “because GSA’s existing [data validation and verification] approach and its planned improvements to that approach provide limited insight into how agencies collect and report data into FRPP, decision-makers at OMB, GSA, and other federal agencies have limited insight into the risk of using the data to guide decisions.”³⁸

²⁹*Id.* (statement of David Wise, Director, Physical Infrastructure Issues, U.S. Gov’t Accountability Office).

³⁰*Id.*

³¹*Id.* (statement of Norman Dong, Commissioner, Public Buildings Service, U.S. Gen. Services Admin.).

³²*Id.*

³³Gov’t Accountability Office, GAO–16–275, *Federal Real Property: Improving Data Transparency and Expanding the National Strategy Could Help Address Long-Standing Challenges* (Mar. 2016), available at <http://www.gao.gov/assets/680/676253.pdf>.

³⁴*Id.* at 13–19.

³⁵*Id.* at 20.

³⁶*Id.* at 11.

³⁷*Id.* at 20.

³⁸*Id.* at 21–22.

On April 12, 2016, the sponsors of S. 2509 wrote to the Administrator of GSA to further inquire as to GSA's progress in improving the quality of Federal real property data.³⁹ GSA responded and provided a complete list of validation checks for each of the data elements contained in the FY 2015 FRPP data dictionary.⁴⁰ GSA also noted that GSA and OMB are

reviewing Agencies' Reduce the Footprint plans to identify opportunities to improve asset utilization and dispose of poorly utilized properties that no longer meet mission needs. As part of this review, GSA developed a robust Asset Repositioning Pipeline and intends to meet with multiple landholding agencies to discuss their plans, share best practices and identify opportunities for improvement.⁴¹

Another challenge for Federal real property management is the lack of incentives for agencies to dispose of their properties. Current law requires most agencies to return funds received from the sale of surplus property to the Treasury.⁴² The Public Buildings Commissioner explained that a major obstacle to disposing of unneeded property is the fact that agencies incur the costs of the up-front investments to prepare the property for disposal but are not authorized to retain any of the proceeds from the sale of a property to recoup those up-front costs.⁴³ The Commissioner stated, "I think having some limited retention of proceeds where agencies can recoup their costs will show dramatic results in terms of the [disposal] activity that we see."⁴⁴ The Controller of OMB agreed that to "retain savings to plow back into a fund is critical."⁴⁵

The Commissioner pointed to two Federal agencies that currently have the authority to retain proceeds from the sale of real property assets, noting "we think that is critical because there has to be some economic incentive for agencies to move these off the books, and what you are seeing is . . . far more significant activity among those two agencies [that retain proceeds] compared to other agencies in the Federal Government."⁴⁶

The Federal Property Management Reform Act of 2016 codifies the broader management framework put forward by the Bush and Obama Administrations, ensuring that the management improvements borne over time become a permanent framework for agency property management. The bill codifies and expands the Federal Real Property Council while charging the Council with additional requirements that will monitor agencies' progress in managing their property. Federal agencies would be required to report on underutilized real properties and provide more detailed information on how each property asset serves the agency's mission needs. The bill would codify and bring additional transparency to the FRPP, recognizing its value as an essential tool for Government-wide

³⁹ Letter from Senators Johnson, Carper, Portman, King, Lankford, and Heitkamp to the Honorable Denise Turner Roth, Administrator U.S. General Services Administration (April 12, 2016) (on file with Comm.).

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² 40 U.S.C. § 572(a)(1).

⁴³ Hearing, *supra* note 28 (statement of Norman Dong).

⁴⁴ *Id.*

⁴⁵ *Id.* (statement of David Mader, Controller, Office of Mgmt. & Budget).

⁴⁶ *Id.* (statement of Norman Dong).

property management. This bill would also provide a key incentive for agencies to dispose of properties by allowing them to retain the net proceeds from the sale of property for the purpose of investing in subsequent real property disposals or for training Federal buildings personnel.

III. LEGISLATIVE HISTORY

S. 2509, the Federal Property Management Reform Act of 2016, was introduced on February 4, 2016, by Ranking Member Tom Carper with Senators Rob Portman, Ron Johnson, Angus King, Heidi Heitkamp, and James Lankford as original cosponsors. The bill was referred to the Committee on Homeland Security and Governmental Affairs.

The Committee considered S. 2509 at a business meeting on February 10, 2016. During the business meeting, one amendment by Ranking Member Carper, in the form of a substitute, was offered and adopted. Both the substitute amendment and the legislation as amended were passed by voice vote with Senators Johnson, McCain, Portman, Paul, Lankford, Ayotte, Ernst, Sasse, Carper, McCaskill, Tester, Baldwin, Heitkamp, Booker, and Peters present.

IV. SECTION-BY-SECTION ANALYSIS OF THE BILL, AS REPORTED

Section 1. Short title

This section establishes the bill's title as the "Federal Property Management Reform Act of 2016."

Section 2. Purpose

This section outlines the purpose of the Federal Property Management Reform Act of 2016 to increase the efficiency and effectiveness of the management of Federal Government property. This bill seeks to achieve this by establishing a Federal Property Council to develop and implement strategies for improved management of Federal property, by allowing Federal agencies to retain proceeds from the sale of Federal real property, and by requiring the United States Postal Service to better manage and account for its property and modernize the Postal fleet.

Section 3. Property management

This section establishes property management definitions for use later in the bill and establishes a Federal Property Council whose purpose is to reduce the costs of managing Federal property by developing guidance and ensuring implementation of a property management strategy and by identifying opportunities for improved management of Federal properties and assets. The Council will be comprised of Federal officials and employees and would meet no less than four times each year.

The Council is charged with establishing a property management plan template with performance measures and goals that will enable Congress and Federal agencies to improve Federal property management, including reducing surplus property, achieving better utilization of underutilized property, or to enhance management of high value personal property and track the Government's progress and to compare Federal agencies' performances with the private sector and other public sector agencies. The Council will also be re-

quired to submit to OMB a report that includes a list of underutilized, excess, and surplus Federal real properties and the progress achieved in Federal real property management. Federal agencies with independent leasing authority are directed to submit to the Council information about their leases no later than December 31 of each year following enactment.

This section also requires GSA to create and maintain a database of all Federal real property assets. This database will include descriptive information about each property and a list of completed real property disposals. This database will be publicly available, to the extent possible considering national security and public safety concerns, on the GSA website no later than three years after the enactment of this bill.

Under this section, the Postmaster General of the United States is required to identify postal properties with available space for use by other Federal agencies. This list of properties is to be submitted to Congress and to each Federal agency, with the option of also submitting this list of identified available properties to the Council. Each Federal agency is required to review the list submitted by the Postmaster General and recommend colocations if appropriate. The Postmaster General and applicable agency head are then directed to establish appropriate terms of a lease for each postal property.

Section 4. United States Postal Service property management

This section provides definitions for postal property management, requires the United States Postal Service to maintain adequate inventory controls and accountability systems for its property, and directs it to develop workforce projections to assess the property needs of the Postal Service. It also encourages the Postal Service to develop a 5-year management template to better manage postal property which shall include an assessment of its real property assets. This section does not require the Postal Service to conduct an appraisal of its real property assets.

Section 5. Agency retention of proceeds

Under this section the net proceeds from the sale of a real property asset will be deposited with the agency that had custody and accountability for the asset at the time it was determined to be excess property. Federal agencies are permitted to use these proceeds as authorized in annual appropriations acts for purposes of real property management and disposals, for activities pursuant to the Federal Buildings Personnel Training Act, or for deficit reduction. This section is not intended to affect any other provision of Federal law that directs the use of retained proceeds to a different use.

Section 6. Inspector General report on United States Postal Service property

This section requires the Inspector General of the United States Postal Service to submit a report to Congress on the excess property held by the Postal Service and recommendations for reducing excess capacity and increasing collocation with other Federal agencies without diminishing the ability of the Postal Service to meet service standards.

Section 7. Reports on United States Postal fleet modernization

This section requires the GAO to submit a report to Congress on integrating the use of collision-averting technology into its vehicle fleet and on designing mail delivery vehicles that are equipped for diverse geographic conditions. This section also requires the United States Postal Service to submit a report to Congress about its fleet replacement and modernization efforts and strategic planning.

Section 8. Surplus property donations to museums

Under this section, museums that are not for profit and are open to the public on a regularly scheduled weekly basis during normal business hours may receive donations of surplus Federal personal property for purposes of education or public health, including research.

Section 9. Duties of federal agencies

This section provides additional required duties for Federal agencies to exercise in the management of Federal real property. These additional duties include establishing goals and policies that will lead the executive agency to reduce excess property and underutilized property in its inventory, assessing leased space to identify space that is not fully used or occupied, and on an annual basis and subject to the guidance of the Council, submit an annual report to the Council on all excess and underutilized real properties. Under this section, Federal agencies must also conduct an annual inventory of their real property assets to be submitted to the Council and GSA for inclusion in the real property database established by this bill.

V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill and determined that the bill will have no regulatory impact within the meaning of the rules. The Committee agrees with the Congressional Budget Office's statement that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

JULY 11, 2016.

Hon. RON JOHNSON, *Chairman,*
Committee on Homeland Security and Governmental Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 2509, the Federal Property Management Reform Act of 2016.

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

Sincerely,

KEITH HALL.

Enclosure.

S. 2509—Federal Property Management Reform Act of 2016

Summary: S. 2509 would amend federal laws related to managing federal property. Specifically the legislation would require the United States Postal Service (USPS) to prepare a physical and financial assessment for each of its properties. In addition, the bill would codify and expand the duties and responsibilities of the Federal Real Property Council (FRPC), provide new authorities to the General Services Administration (GSA), and require additional reports from federal agencies on their use of real property, whether owned or leased.

CBO estimates that enacting the bill would increase direct spending by the USPS by \$15 million over the 2017–2021 period. USPS cash flows are classified as off-budget. Because enacting the legislation would affect only direct spending that is off-budget and would not affect revenues, pay-as-you-go procedures do not apply.

In addition, CBO estimates that implementing S. 2509 would cost federal agencies \$3 million over the 2017–2021 period for additional administrative and reporting activities related to property disposal; such spending would be subject to the availability of appropriated funds.

CBO estimates that enacting S. 2509 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

S. 2509 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 S. 2509 is shown in the following table. The costs of this legislation fall within budget functions 370 (commerce and housing credit) and 800 (general government).

	By fiscal year, in millions of dollars—					
	2017	2018	2019	2020	2021	2017–2021
INCREASES IN DIRECT SPENDING (OFF-BUDGET)						
Estimated Budget Authority	10	5	0	0	0	15
Estimated Outlays	10	5	0	0	0	15
INCREASES IN SPENDING SUBJECT TO APPROPRIATION						
Estimated Authorization Level	1	*	*	*	*	3
Estimated Outlays	1	*	*	*	*	3

Notes: * = less than \$500,000; components may not sum to totals because of rounding.

Basis of estimate: For this estimate, CBO assumes that S. 2509 will be enacted near the end of 2016, that the necessary funds will be available each year, and that spending will follow historical patterns for the affected programs.

Direct spending. S. 2509 would direct the USPS to prepare an assessment for each of its properties, including information on the age and condition, annual operating costs, capital expenditures, and estimated operation and maintenance costs. The Postal Service has roughly 30,000 properties that would be affected by the bill. Based on information from the USPS and the costs of similar activities, CBO expects that assessments would cost, on average, about \$500. Thus, CBO estimates that enacting the bill would in-

crease direct spending by \$15 million over the 2017–2018 period for the agency to carry out the assessments required by S. 2509. Spending by the Postal Service is classified as off-budget.

Spending subject to appropriation. S. 2509 would codify and expand the duties of the FRPC, increase the reporting responsibilities of landholding agencies, require GSA to improve its database of federal real property, and require the USPS Inspector General to prepare a report on excess property held by the Postal Service. Under the legislation, the FRPC would need to develop new measures to evaluate the use of government facilities and to create a strategy to reduce the need to lease buildings. The FRPC also would need to create a list of excess, surplus, and underutilized property, and properties that would be available for federal agencies to share. Finally, agencies would have to report new information to the FRPC, including the cost of selling properties, the amount of capital expenditures per building, and the number of federal employees and contractors that use each facility.

Based on information from GSA and some landholding agencies and the costs of similar activities, CBO estimates that implementing those provisions would cost about \$3 million over the 2017–2021 period, mostly for salaries and expenses.

Pay-As-You-Go considerations: None.

Increase in long-term direct spending and deficits: CBO estimates that enacting the bill would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

Intergovernmental and private-sector impact: S. 2509 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: Mark Grabowicz and Matthew Pickford; Impact on State, local, and tribal governments: Jon Sperl; Impact on the private sector: Paige Piper/Bach.

Estimate approved by: H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows: (existing law proposed to be omitted is enclosed in brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

UNITED STATES CODE

* * * * *

**TITLE 40—PUBLIC BUILDINGS, PROPERTY,
AND WORKS**

* * * * *

Subtitle I—Federal Property and Administrative Services

* * * * *

CHAPTER 1—GENERAL

* * * * *

Subchapter I—Purpose and Definitions

* * * * *

SEC. 102. DEFINITIONS.

[The] *Except as provided in subchapters VII and VIII of chapter 5 of this title, the following definitions apply in chapters 1 through 7 of this title and in division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41:*

* * * * *

CHAPTER 5—PROPERTY MANAGEMENT

* * * * *

Subchapter II—Use of Property

* * * * *

SEC. 524. DUTIES OF EXECUTIVE AGENCIES.

(a)

(1) * * *

* * * * *

*

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

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

(6) *develop current and future workforce projections so as to have the capacity to assess the needs of the Federal workforce regarding the use of real property;*

(7) *establish goals and policies that will lead the executive agency to reduce excess property and underutilized property in the inventory of the executive agency;*

(8) *submit to the Federal Property Council an annual report on all excess property that is real property and underutilized property in the inventory of the executive agency, including—*

(A) whether underutilized property can be better utilized, including through collocation with other executive agencies or consolidation with other facilities; and

(B) the extent to which the executive agency believes that retention of the underutilized property serves the needs of the executive agency;

(9) *adopt workplace practices, configurations, and management techniques that can achieve increased levels of productivity and decrease the need for real property assets;*

(10) *assess leased space to identify space that is not fully used or occupied;*

(11) on an annual basis and subject to the guidance of the Federal Property Council—

(A) conduct an inventory of real property under the control of the executive agency; and

(B) make an assessment of each property, which shall include—

- (i) the age and condition of the property;
- (ii) the size of the property in square footage and acreage
- (iii) the geographical location of the property, including an address and description;
- (iv) the extent to which the property is being utilized;
- (v) the actual annual operating costs associated with the property;
- (vi) the total cost of capital expenditures incurred by the Federal Government associated with the property;
- (vii) sustainability metrics associated with the property;
- (viii) the number of Federal employees and contractor employees and functions housed at the property;
- (ix) the extent to which the mission of the executive agency is dependent on the property;
- (x) the estimated amount of capital expenditures projected to maintain and operate the property during the 5-year period beginning on the date of enactment of this paragraph; and
- (xi) any additional information required by the Administrator of General Services to carry out section 623; and

(12) provide to the Federal Property Council and the Administrator of General Services the information described in paragraph (11)(B) to be used for the establishment and maintenance of the database described in section 624.

* * * * *

(c) **DEFINITION OF EXECUTIVE AGENCY.**—For the purpose of paragraphs (6) through (12) of subsection (a), the term “executive agency” shall have the meaning given the term “Federal agency” in section 621.

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Subchapter III—Disposing of Property

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SEC. 549. DONATION OF PERSONAL PROPERTY THROUGH STATE AGENCIES.

- (a) * * *
- (b) * * *
- (c) * * *
 - (1) * * *
 - (2) * * *
 - (3) * * *
 - (A) * * *
 - (B) * * *

(i) * * *

* * * * *

[(vii) a museum attended by the public] *(vii) a museum open to the public on a regularly scheduled weekly basis, and the hours of operation are, at a minimum, during normal business hours (as determined by the Administrator);*

* * * * *

Subchapter IV—Proceeds from Sale or Transfer

SEC. 571. GENERAL RULES FOR DEPOSIT AND USE OF PROCEEDS.

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

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

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

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

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

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

(a) *PROCEEDS FROM TRANSFER OR SALE OF REAL PROPERTY.—*

(1) *DEPOSIT OF NET PROCEEDS.—Net proceeds described in subsection (d) shall be deposited into the appropriate account of the agency that had custody and accountability for the property at the time the property is determined to be excess.*

(2) *EXPENDITURE OF NET PROCEEDS.—The net proceeds deposited pursuant to paragraph (1) may only be expended as authorized in annual appropriations Acts, for—*

(A) *activities described in sections 543 and 545, including paying costs incurred by the General Services Administration for any disposal-related activity authorized by this title; and*

(B) *activities pursuant to implementation of the Federal Buildings Personnel Training Act of 2010 (40 U.S.C. 581 note; Public Law 111-308).*

(3) *DEFICIT REDUCTION.—Any net proceeds described in subsection (d) from the sale, lease, or other disposition of surplus real property that are not expended under paragraph (2) shall be used for deficit reduction.*

(b) *EFFECT ON OTHER SECTIONS.—Nothing in this section is intended to affect section 572(b), 573, or 574.*

(c) *DISPOSAL AGENCY FOR REVERTED PROPERTY.—For the purposes of this section, for any property that reverts to the United States under sections 550 and 553, the General Services Administration, as the disposal agency, shall be treated as the agency with*

custody and accountability for the property at the time the property is determined to be excess.

(d) *NET PROCEEDS.*—The net proceeds described in this subsection are proceeds under this chapter, less expenses of the transfer or disposition as provided in section 572(a), from—

(1) a transfer of excess real property to a Federal agency for agency use; or

(2) a sale, lease, or other disposition of surplus real property.

(e) *PROCEEDS FROM TRANSFER OR SALE OF PERSONAL PROPERTY.*—

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

(2) *PROCEEDS.*—The proceeds described in this paragraph are proceeds under this chapter from—

(A) a transfer of excess personal property to a Federal agency for agency use; or

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

(3) *PAYMENT OF EXPENSES OF SALE BEFORE DEPOSIT.*—

(A) *IN GENERAL.*—Subject to regulations under this subtitle, the expenses of the sale of personal property may be paid from the proceeds of the sale so that only the net proceeds are deposited in the Treasury.

(B) *APPLICATION.*—This paragraph applies whether proceeds are deposited as miscellaneous receipts or to the credit of an appropriation as authorized by law.

* * * * *

Subchapter VII—Property Management

Table of sections

Sec.

621. Definitions.

622. Collocation among United States Postal Service properties.

623. Establishment of a Federal Property Council.

624. Inventory and database.

625. Information on certain leasing authorities.

SEC. 621. DEFINITIONS.

In this subchapter:

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

(2) *COUNCIL.*—The term “Council” means the Federal Property Council established by Section 623(a).

(3) *DIRECTOR.*—The term “Director” means the Director of the Office of Management and Budget.

(4) *DISPOSAL.*—The term “disposal” means any action that constitutes the removal of any property from the inventory of the Federal agency, including sale, transfer, deed, demolition, donation, or exchange.

(5) *FEDERAL AGENCY.*—The term “Federal agency” means—

(A) an executive department of independent establishment in the executive branch of the Government; or

(B) a wholly owned Government corporation (other than the United States Postal Service).

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

(7) *POSTAL PROPERTY.*—The term “postal property” means any property owned or leased by the United States Postal Service.

(8) *PUBLIC-PRIVATE PARTNERSHIP.*—The term “public-private partnership” means any partnership or working relationship between a Federal agency and a corporation, individual, or non-profit organization for the purpose of financing, constructing, operating, managing, or maintaining 1 or more Federal real property assets.

(9) *UNDERUTILIZED PROPERTY.*—The term “underutilized property” means a portion or the entirety of any real property, including any improvements, that is used—

(A) irregularly or intermittently by the accountable Federal agency for program purposes of the Federal agency; or

(B) for program purposes than can be satisfied only with a portion of the property.

SEC. 622. COLLOCATION AMONG UNITED STATES POSTAL SERVICE PROPERTIES.

(a) *IDENTIFICATION OF POSTAL PROPERTY.*—Each year, the Postmaster General shall—

(1) identify a list of postal properties with space available for use by Federal agencies; and

(2) not later than September 30, submit the list to—

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

(B) the Committee on Oversight and government Reform of the House of Representatives.

(b) *VOLUNTARY IDENTIFICATION OF POSTAL PROPERTY.*—Each year, the Postmaster General may submit the list under subsection (a) to the Council.

(c) *SUBMISSION OF LIST OF POSTAL PROPERTIES TO FEDERAL AGENCIES.*—

(1) *IN GENERAL.*—Not later than 30 days after the completion of a list under subsection (a), the Council shall provide the list to each Federal agency.

(2) *REVIEW BY FEDERAL AGENCIES.*—Not later than 90 days after the receipt of the list submitted under paragraph (1), each Federal agency shall—

(A) review the list;

(B) review the properties under the control of the Federal agency; and

(C) recommend collocations if appropriate.

(d) *TERMS OF COLLOCATION.*—On approval of the recommendations under subsection (c) by the Postmaster General and the applicable agency head, the Federal agency or appropriate landholding entity may work with the Postmaster General to establish appropriate terms of a lease for each postal property.

(e) *RULE OF CONSTRUCTION.*—Nothing in this section exceeds, modifies, or supplants any other Federal law relating to any competitive bidding process governing the leasing of postal property.

SEC. 623 ESTABLISHMENT OF A FEDERAL PROPERTY COUNCIL.

(a) *ESTABLISHMENT.*—There is established a Federal Property Council.

(b) *PURPOSE.*—The purpose of the Council shall be—

(1) to develop guidance and ensure implementation of an efficient and effective property management strategy;

(2) to identify opportunities for the Federal Government to better manage property and assets of the Federal Government; and

(3) to reduce the costs of managing property of the Federal Government, including operations, maintenance, and security associated with Federal property.

(c) *COMPOSITION.*—

(1) *IN GENERAL.*—The Council shall be composed exclusively of—

(A) the senior real property officers of each Federal agency and the Postal Service;

(B) the Deputy Director for Management of the Office of Management and Budget;

(C) the Controller of the Office of Management and Budget;

(D) the Administrator; and

(E) any other full-time or permanent part-time Federal officials or employees, as the Chairperson determines to be necessary.

(2) *CHAIRPERSON.*—The Deputy Director for Management of the Office of Management and Budget shall serve as Chairperson of the Council.

(3) *EXECUTIVE DIRECTOR.*—

(A) *IN GENERAL.*—The Chairperson shall designate an Executive Director to assist in carrying out the duties of the Council.

(B) *QUALIFICATIONS; FULL-TIME.*—The Executive Director shall—

(i) be appointed from among individuals who have substantial experience in the areas of commercial real estate and development, real property management, and Federal operations and management;

(ii) serve full-time; and

(iii) hold no outside employment that may conflict with duties inherent to the position.

(d) *MEETINGS.*—

(1) *IN GENERAL.*—The Council shall meet subject to the call of the Chairperson.

(2) *MINIMUM.*—The Council shall meet not fewer than 4 times each year.

(e) *DUTIES.*—The Council, in consultation with the Director and the Administrator, shall—

(1) not later than 1 year after the date of enactment of this subchapter, establish a property management plan template, to be updated annually, which shall include performance measures, specific milestones, measurable savings, strategies, and Government-wide goals based on the goals established under section 524(a)(7) to reduce surplus property, or to enhance management of high value personal property, and evaluation cri-

teria to determine the effectiveness of property management that are designed—

(A) to enable Congress and heads of Federal agencies to track progress in the achievement of property management objectives on a Government-wide basis;

(B) to improve the management of real property; and

(C) to allow for comparison of the performance of Federal agencies against industry and other public sector agencies in terms of performance;

(2) develop utilization rates consistent throughout each category of space, considering the diverse nature of the Federal portfolio and consistent with non-governmental space use rates;

(3) develop a strategy to reduce the reliance of Federal agencies on leased space for long-term needs if ownership would be less costly;

(4) provide guidance on eliminating inefficiencies in the Federal leasing process;

(5) compile a list of field offices that are suitable for collocation with other property assets;

(6) research best practices regarding the use of public-private partnerships to manage properties and develop guidelines for the use of those partnerships in the management of Federal property;

(7) not later than 1 year after the date of enactment of this subchapter—

(A) examine the disposal of surplus property through the State Agencies for Surplus Property program; and

(B) issue a report that includes recommendations on how the program could be improved to ensure accountability and increase efficiency in the property disposal process; and

(8) not later than 1 year after the date of enactment of this subchapter and annually during the 4-year period beginning on the date that is 1 year after the date of enactment of this subchapter and ending on the date that is 5 years after the date of enactment of this subchapter, the Council shall submit to the Director a report that contains—

(A) a list of the remaining excess property or surplus property that is real property, and underutilized properties of each Federal agency;

(B) the progress of the Council toward developing guidance for Federal agencies to ensure that the assessment required under section 524(a)(11)(B) is carried out in a uniform manner;

(C) the progress of Federal agencies toward achieving the goals established under section 524(a)(7); and

(D) if necessary, recommendations for legislation or statutory reforms that would further the goals of the Council, including streamlining the disposal of excess real or personal property or underutilized property.

(f) CONSULTATION.—In carrying out the duties described in subsection (e), the Council shall also consult with representatives of—

(1) State, local, tribal authorities, and affected communities; and

(2) appropriate private sector entities and non-governmental organizations that have expertise in areas of—

- (A) commercial real estate and development;
- (B) government management and operations;
- (C) space planning;
- (D) community development, including transportation and planning;
- (E) historic preservation;
- (F) providing housing to the homeless population; and
- (G) personal property management.

(g) **COUNCIL RESOURCES.**—*The Director and the Administrator shall provide staffing, and administrative support for the Council, as appropriate.*

(h) **ACCESS TO INFORMATION.**—*The Council shall make available, on request, all information generated by the Council in performing the duties of the Council to—*

- (1) the Committee on Homeland Security and Governmental Affairs of the Senate;
- (2) the Committee on Environment and Public Works of the Senate;
- (3) the Committee on Oversight and Government Reform of the House of Representatives;
- (4) the Committee on Transportation and Infrastructure of the House of Representatives; and
- (5) the Comptroller General of the United States.

(i) **EXCLUSIONS.**—*In this section, surplus property shall not include—*

- (1) any military installation (as defined in section 2910 of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note; Public Law 101-510));
- (2) any property that is excepted from the definition of the term “property” under section 102;
- (3) Indian and native Eskimo property held in trust by the Federal Government as described in section 3301(a)(5)(C)(iii);
- (4) real property operated and maintained by the Tennessee Valley Authority pursuant to the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831 et seq.);
- (5) any real property the Director excludes for reasons of national security;
- (6) any public lands (as defined in section 203 II the Public Lands Corps Act of 1993 (16 U.S.C. 1722)) administered by—
 - (A) the Secretary of the Interior, acting through—
 - (i) the Director of the Bureau of Land Management;
 - (ii) the Director of the National Park Service;
 - (iii) the Commissioner of Reclamation; or
 - (iv) the Director of the United States Fish and Wildlife Service; or
 - (B) the Secretary of Agriculture, acting through the Chief of the Forest Service; or
- (7) any property operated and maintained by the United States Postal Service.

SEC. 624. INVENTORY AND DATABASE.

(a) **IN GENERAL.**—*Not later than 1 year after the date of enactment of this subchapter, the Administrator shall establish and maintain a single, comprehensive, and descriptive database of all real property under the custody and control of all Federal agencies.*

(b) **CONTENTS.**—*The database shall include—*

(1) information provided to the Administrator under section 524(a)(11)(B); and

(2) a list of property disposals completed, including—

(A) the date and disposal method used for each property;

(B) the proceeds obtained from the disposal of each property;

(C) the amount of time required to dispose of the property, including the date on which the property is designated as excess property;

(D) the date on which the property is designated as surplus property and the date on which the property is disposed; and

(E) all costs associated with the disposal.

(c) ACCESSIBILITY.—

(1) COMMITTEES.—The database established under subsection (a) shall be made available on request to the Committee on Homeland Security and Governmental Affairs and the Committee on Environment and Public Works of the Senate and the Committee on Oversight and Government Reform and the Committee on Transportation and Infrastructure of the House of Representatives.

(2) GENERAL PUBLIC.—Not later than 3 years after the date of enactment of this subchapter and to the extent consistent with national security, the Administrator shall make the database established under subsection (a) accessible to the public at no cost through the website of the General Services Administration.

(d) EXCLUSIONS.—In this section, surplus property shall not include—

(1) any military installation (as defined in section 2910 of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note; Public Law 101–510));

(2) any property that is excepted from the definition of the term “property” under section 102;

(3) Indian and native Eskimo property held in trust by the Federal Government as described in section 3301(a)(5)(C)(iii);

(4) real property operated and maintained by the Tennessee Valley Authority pursuant to the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831 et seq.);

(5) any real property the Director excludes for reasons of national security;

(6) any public lands (as defined in section 203 II the Public Lands Corps Act of 1993 (16 U.S.C. 1722)) administered by—

(A) the Secretary of the Interior, acting through—

(i) the Director of the Bureau of Land Management;

(ii) the Director of the National Park Service;

(iii) the Commissioner of Reclamation; or

(iv) the Director of the United States Fish and Wildlife Service; or

(B) the Secretary of Agriculture, acting through the Chief of the Forest Service; or

(7) any property operated and maintained by the United States Postal Service.

SEC. 625. INFORMATION ON CERTAIN LEASING AUTHORITIES.

(a) *IN GENERAL.*—Except as provided in subsection (b), not later than December 31 of each year following the date of enactment of this subchapter, a Federal agency with independent leasing authority shall submit to the Council a list of all leases, including operating leases, in effect on the date of enactment of this subchapter that includes—

- (1) the date on which each lease was executed;
- (2) the date on which each lease will expire;
- (3) a description of the size of the space;
- (4) the location of the property;
- (5) the tenant agency;
- (6) the total annual rental payment; and
- (7) the amount of the net present value of the total estimated legal obligations of the Federal Government over the life of the contract.

(b) *EXCEPTION.*—Subsection (a) shall not apply to—

- (1) the United States Postal Service; or
- (2) any other property the President excludes from subsection (a) for reasons of national security.

**Subchapter VIII—United States Postal Service Property
Management**

Table of Sections

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641. Definitions.

642. United States Postal Service property management.

SEC. 641. DEFINITIONS.

In this subchapter:

- (1) *EXCESS PROPERTY.*—The term “excess property” means any postal property that the Postal Service determines is not required to meet the needs or responsibilities of the Postal service.
- (2) *POSTAL PROPERTY.*—The term “postal property” means any property owned or leased by, or under the control of, the Postal Service.
- (3) *POSTAL SERVICE.*—The term “Postal Service” means the United States Postal Service.
- (4) *UNDERUTILIZED PROPERTY.*—The term “underutilized property” means a portion or the entirety of any real property, including any improvement that is used—
 - (A) irregularly or intermittently by the Postal Service for program purposes of the Postal Service; or
 - (B) for program purposes that can be satisfied only with a portion of the property.

SEC. 642. UNITED STATES POSTAL SERVICE PROPERTY MANAGEMENT.

The Postal Service—

- (1) shall maintain adequate inventory controls and accountability systems for postal property;
- (2) shall develop current and future workforce projections so as to have the capacity to assess the needs of the Postal Service workforce regarding the use of property;
- (3) may develop a 5-year management template that—
 - (A) establishes goals and policies that will lead to the reduction of excess property and underutilized property in the inventory of the Postal Service;

(B) adopts workplace practices, configurations, and management techniques that can achieve increased levels of productivity and decrease the need for real property assets;

(C) assesses leased space to identify space that is not fully used or occupied;

(D) develops recommendations on how to address excess capacity at Postal Service facilities without negatively impacting mail delivery; and

(E) develops recommendations on ensuring the security of mail processing operations; and

(4) shall, on a regular basis—

(A) conduct an inventory of postal property that is real property; and

(B) make an assessment of each property described in subparagraph (A), which shall include—

(i) the age and condition of the property;

(ii) the size of the property in square footage and acreage

(iii) the geographical location of the property, including an address and description;

(iv) the extent to which the property is being utilized;

(v) the actual annual operating costs associated with the property;

(vi) the total cost of capital expenditures associated with the property;

(vii) the number of postal employees, contractor employees, and functions housed at the property;

(viii) the extent to which the mission of the Postal Service is dependent on the property; and

(ix) the estimated amount of capital expenditures projected to maintain and operate the property over each of the next 5 years after the date of enactment of this subchapter.