

Calendar No. 324

116TH CONGRESS }
2d Session }

SENATE

{ REPORT
116-260

NASA ENHANCED USE LEASING EXTENSION
ACT OF 2019

R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION

ON

S. 2909



AUGUST 13, 2020.—Ordered to be printed

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED SIXTEENTH CONGRESS

SECOND SESSION

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NASA ENHANCED USE LEASING EXTENSION ACT OF 2019

AUGUST 13, 2020.—Ordered to be printed

Mr. WICKER, from the Committee on Commerce, Science, and
Transportation, submitted the following

R E P O R T

[To accompany S. 2909]

[Including cost estimate of the Congressional Budget Office]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 2909) to extend the authority of the National Aeronautics and Space Administration to enter into leases of non-excess property of the Administration, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE BILL

The purpose of this bill is to extend the National Aeronautics and Space Administration's (NASA) authorization to use enhanced use lease (EUL) authority through December 31, 2021. The current authorization expires on December 31, 2019. The EUL authority allows NASA to enter into agreements with private sector entities, State and local governments, academic institutions, and other Federal agencies, to lease non-excess but underutilized NASA property.

BACKGROUND AND NEEDS

Unlike traditional lease arrangements, EUL permits NASA to retain revenues and use them for capital improvements and to improve mission effectiveness. NASA has 70 EULs at primarily five NASA centers: Stennis Space Center (Mississippi), Ames Research Center (California), Marshall Space Flight Center (Alabama), Kennedy Space Center (Florida), and Goddard Space Flight Center (Maryland). Each year, the overall EUL program generates positive revenue for NASA to help maintain deteriorating facilities. The net

revenue income from EUL was \$6.8 million in fiscal year (FY) 2018 and \$5.4 million in FY 2017. NASA strongly supports EUL, and with the authority set to expire at the end of December 2019, NASA submitted a legislative proposal to extend this authority until December 31, 2024. NASA's EUL partners are often looking for longer term lease arrangements for stability of their operations, and therefore a reliable leasing framework is important for all parties concerned. The 2-year extension will give Congress additional time to formulate a longer term EUL reauthorization in a future NASA authorization bill. The Committee reported S. 2800, the National Aeronautics and Space Administration Authorization Act of 2019, on November 13, 2019, but that legislation awaits consideration by the full Senate.

SUMMARY OF PROVISION

The NASA Enhanced Use Leasing Extension Act of 2019 would extend the leasing authority of NASA by 2 years until December 31, 2021. The bill would not modify NASA's EUL authority or make any changes to requirements associated with the authority.

LEGISLATIVE HISTORY

S. 2909 was introduced on November 20, 2019, by Senator Wicker (for himself and Senators Cantwell and Hyde-Smith) and was referred to the Committee on Commerce, Science, and Transportation of the Senate. Senators Feinstein and Scott are additional cosponsors. On December 11, 2019, the bill was reported out of committee after the Committee met in open Executive Session and, by voice vote, ordered S. 2909 reported favorably without amendment and by unanimous consent.

RELATED LEGISLATION

Further Consolidated Appropriations Act, 2020

Section 602 of division I, title VI of the Further Consolidated Appropriations Act, 2020, H.R. 1865,¹ extended NASA's EUL authority until December 31, 2021, in a manner identical to the provisions in S. 2909. H.R. 1865 was signed into law on December 20, 2019.

House Companion NASA Enhanced Use Leasing Extension Act of 2019

A house companion bill, the NASA Enhanced Use Leasing Extension Act of 2019, H.R. 5213, was introduced by Representative Horn on November 21, 2019, with Representatives Babin, Johnson, Lucas and Palazzo as cosponsors. Similar to the proposed Senate bill S. 2909, this companion bill also proposes the extension of NASA's EUL authority to December 31, 2021.

National Aeronautics and Space Administration Authorization Act of 2019

The National Aeronautics and Space Administration Authorization Act of 2019, S. 2800, was introduced on November 6, 2019, by Senator Cruz (for himself and Senators Sinema, Wicker, and Cant-

¹ Public Law 116-94.

well) and was referred to the Committee on Commerce, Science, and Transportation of the Senate. On November 13, 2019, the Committee met in Executive Session and, by voice vote, ordered S. 2800 reported favorably with an amendment (in the nature of a substitute). S. 2800 awaits consideration by the full Senate. This bill proposes to remove the sunset clause in section 20145 of title 51 that currently extends EUL authority until December 31, 2019.

NASA Enhanced Use Leasing Extension Act of 2018

In the 115th Congress, the NASA Enhanced Use Leasing Extension Act of 2018,² introduced by Senator Wicker, extended the authority for NASA to lease its non-excess real property and related personal property through December 31, 2019.

National Aeronautics and Space Administration Transition Authorization Act of 2017

The National Aeronautics and Space Administration Transition Authorization Act of 2017,³ which was signed into law by President Trump on March 21, 2017, calls for NASA to prioritize the technologies and capabilities best suited to equip the United States for a human mission to Mars and beyond. It extended the EUL authority from December 26, 2007, to December 31, 2018.

National Aeronautics and Space Act of 1958 and Related Authorities

Congress first enacted NASA's EUL authority as part of the Consolidated Appropriations Resolution, 2003,⁴ which amended the National Aeronautics and Space Act of 1958.⁵ Initially this authority was used to demonstrate the program at two of its Centers, Ames Research Center and Kennedy Space Center. In 2008, this authority was expanded to provide agency-wide EUL coverage, and was amended again by the Consolidated and Further Continuing Appropriations Act, 2012⁶ to permit the acceptance of in-kind consideration for leases entered into for the purpose of developing renewable energy production facilities.

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

²Public Law 115-403.

³Public Law 115-10.

⁴Public Law 108-7.

⁵Public Law 85-568.

⁶Public Law 112-55.

Table 1. Discretionary Appropriations (Including Adjustments) for Fiscal Year 2020

Divisions A through H of Rules Committee Print 116-44 would provide appropriations and authorities for the remainder of fiscal year 2020 for the agencies covered by 8 of the 12 annual appropriation acts. In 2020, most discretionary budget authority is subject to limits (or caps) established by the Budget Control Act of 2011 (Public Law 112-25), as modified. Separate caps exist for defense funding (in the law, *revised security*), which is budget function 050, and for nondefense funding (*revised nonsecurity*), which encompasses all other budget functions. The Budget Control Act also provides for certain adjustments to those caps. This table defines CBO's estimates of funding that is constrained by the 2020 caps on defense and nondefense funding and the amounts that result in adjustments to those caps. This table excludes the budgetary effects of divisions I through P, which are summarized in Table 2.

Subcommittee: Labor, HHS, Education (Division A) ^f	Constrained by Caps				Cap Adjustments ^g				Total ^f
	Defense	Nondefense	Total	OCO:GWOT	Emergency ^d	Disaster Relief	Program Integrity	Wildfire Suppression	
BA	0	183,042	183,042	0	0	0	1,842	0	184,884
OL	0	186,925	186,925	0	974	0	1,841	0	189,740
BA:	0	23,493	23,493	0	0	0	0	0	23,493
OL:	0	22,803	22,803	0	3,402	0	0	0	26,205
BA	24,250	24,093	48,343	0	0	0	0	0	48,343
OL	23,253	22,352	45,605	0	544	0	0	0	46,149
BA	0	35,989	35,989	0	0	0	0	2,250	38,239
OL	0	34,839	34,839	0	289	0	0	2,250	37,378
BA	0	5,049	5,049	0	0	0	0	0	5,049
OL	0	4,996	4,996	0	5	0	0	0	5,001
BA:	11,315	92,171	103,486	645	6,229	0	0	0	110,360
OL:	9,243	88,911	98,154	1	470	0	0	0	98,625
BA	0	46,685	46,685	8,000	0	0	0	0	54,685
OL	0	48,079	48,079	2,326	0	0	0	0	50,405
BA	300	73,977	74,277	0	0	0	0	0	74,277
OL	300	132,741	133,041	0	878	0	0	0	133,919
BA	35,865	484,499	520,364	8,645	6,772	0	1,842	2,250	539,873
OL	32,796	541,646	574,442	2,327	6,562	0	1,481	2,250	587,062

Source: Congressional Budget Office.
 BA = budget authority; HHS = Health and Human Services; HUD = Housing and Urban Development;
 OCO:GWOT = overseas contingency operations/global war on terrorism; OL = outlays; VA = Veterans Affairs.

- a For 2020, those limits total \$1,288 billion—\$666.5 billion for defense programs and \$621.5 billion for nondefense programs.
- b These amounts are designated in accordance with section 231 of the Balanced Budget and Emergency Deficit Control Act of 1985; the caps for fiscal year 2020 would be adjusted to accommodate these amounts. OCO consists primarily of military activities in Afghanistan and similar missions. Emergency funding consists of appropriations formally designated as required under section 251(B)(2)(A)(i) of the Deficit Control Act. Disaster relief funding is for activities carried out under section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended. Such activities may result from a natural disaster that causes damage of enough severity to warrant federal assistance. Program integrity initiatives seek to identify and reduce overpayments in certain benefit programs. Appropriations for activities related to wildfire suppression and the 2020 census also result in adjustments to the 2020 limits if they are designated in accordance with section 251 of the Deficit Control Act.
- c In keeping with the 21st Century Cures Act (P.L. 114-255), funding for certain HHS activities is excluded from estimates for the purposes of the Congressional Budget Act of 1974 and the Deficit Control Act. As a result, this estimate excludes \$567 million in budget authority and \$798 million in outlays. Of those amounts, \$75 million in budget authority and \$64 million in outlays are under the jurisdiction of the Agriculture Subcommittee and \$499 million in budget authority and \$734 million in outlays are under the jurisdiction of the Labor, HHS, Education Subcommittee.
- d Includes the effects of newly enacted appropriations designated as emergency requirements that were provided after CBO prepared this report. These include the Supplemental Appropriations for Disaster Relief (P.L. 116-20, enacted on June 6, 2019), and the Emergency Supplemental Appropriations for Humanitarian Assistance and Security at the Southern Border Act, 2019 (P.L. 116-26, enacted on July 1, 2019), provided supplemental funding for 2019 and designated those amounts as emergency requirements in accordance with section 251 of the Budget Control Act (Outlays stemming from emergency-designated appropriations provided before CBO published its May 2019 baseline are included among estimates of spending that is constrained by statutory caps.)
- e Section 237 of division H (Transportation, HUD) would rescind an estimated \$7 million in balances from HUD's Tenant-Based and Project-Based Rental Assistance accounts. Those balances were previously designated by the Congress as an emergency requirement before the current statutory limits on discretionary spending were put in place. In consultation with the House and Senate Budget Committees and the Office of Management and Budget, CBO has determined that rescinding those amounts would not result in an adjustment to the statutory limits on discretionary spending or reduce the amount of appropriations that are subject to the limit. As a result, CBO has excluded the estimated budgetary savings from this report.
- f This table reflects a \$1 million correction to the amount of emergency-designated funding under the jurisdiction of the Military Construction, VA Subcommittee that was reflected in the estimate that CBO initially published on December 10, 2019.

Table 2. Direct Spending and Revenue Effects of Divisions I Through P

December 17, 2019

Table 2 displays CBO's estimate of changes in direct spending and revenues under divisions I through P of Rules Committee Print 116-44, which would extend and modify several federal programs.^a Title X of division I would specify requirements for the budgetary treatment of those divisions. Consistent with that title, and at the direction of the House and Senate Committees on the Budget, divisions I through P are considered to be authorizing legislation rather than appropriation legislation.^b

By Fiscal Year, Millions of Dollars

	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2020- 2024	2020- 2029
INCREASES OR DECREASES (+) IN DIRECT SPENDING												
DIVISION I - EXTENSIONS												
Title I - Immigration Extensions												
Estimated Budget Authority	6	7	3	2	3	3	3	3	3	3	21	36
Estimated Outlays	6	7	3	2	3	3	3	3	3	3	21	36
On-budget outlays	0	7	3	2	3	3	4	4	4	5	21	35
Off-budget outlays	0	0	0	0	0	-1	-1	-1	-1	-2	0	-1
Title III - Secure Rural Schools and Community Self-Determination Extension												
Estimated Budget Authority	165	155	0	0	0	0	0	0	0	0	320	320
Estimated Outlays	165	155	0	0	0	0	0	0	0	0	320	320
Title V - Terrorism Risk Insurance Program Extension												
Estimated Budget Authority	0	160	350	470	550	610	660	700	540	320	1,530	4,360
Estimated Outlays	0	160	350	470	550	610	660	700	540	320	1,530	4,360
Title VI - NASA Enhanced Use Leasing Extension												
Estimated Budget Authority	0	1	2	3	3	3	3	0	0	0	9	15
Estimated Outlays	0	0	1	2	2	3	3	2	1	1	5	15
Title VIII - Brand USA Extension												
Estimated Budget Authority	0	95	95	95	95	95	95	95	0	0	380	665
Estimated Outlays	0	85	95	95	95	95	95	95	10	0	370	665
DIVISION J - FOREIGN POLICY												
Title I - Venezuela Assistance												
Estimated Budget Authority	*	*	*	*	*	*	*	*	*	*	*	*
Estimated Outlays	*	*	*	*	*	*	*	*	*	*	*	*
Title II - Eastern Mediterranean Security and Energy Partnership												
Estimated Budget Authority	*	*	*	*	*	*	*	*	*	*	*	*
Estimated Outlays	*	*	*	*	*	*	*	*	*	*	*	*
Title IX - Other Matters												
Estimated Budget Authority	2	0	0	0	0	0	0	0	0	0	2	2
Estimated Outlays	37	0	0	0	0	0	0	0	0	0	37	37
DIVISION K - NATIONAL LAW ENFORCEMENT MUSEUM COMMEMORATIVE COIN												
Estimated Budget Authority	0	-5	-2	0	7	0	0	0	0	0	0	0
Estimated Outlays	0	-5	-2	0	7	0	0	0	0	0	0	0
DIVISION M - BIPARTISAN AMERICAN MINERS												
Estimated Budget Authority	1,641	427	434	477	473	467	461	462	462	460	3,452	5,762
Estimated Outlays	1,641	427	426	387	257	819	461	462	462	460	3,138	5,800
DIVISION N - HEALTH AND HUMAN SERVICES EXTENDERS												
Estimated Budget Authority	6,231	3,634	302	-26	-65	-118	12	73	-20	-34	10,077	9,990
Estimated Outlays	4,556	4,702	790	60	-39	-118	12	73	-20	-34	10,070	9,983
On-budget outlays	4,356	4,702	791	62	-37	-116	14	75	-18	-32	10,074	9,997
Off-budget outlays	0	*	-1	-2	-2	-2	-2	-2	-2	-2	-4	-15
DIVISION O - SETTING EVERY COMMUNITY UP FOR RETIREMENT ENHANCEMENT												
Estimated Budget Authority	110	114	119	124	129	134	137	143	149	155	596	1,314
Estimated Outlays	110	114	119	124	129	134	137	143	149	155	596	1,314

Continued

Table 2. Direct Spending and Revenue Effects of Division I Through P

Continued	By Fiscal Year, Millions of Dollars											2020-	2020-
	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2020-	2020-	
INCREASES OR DECREASES (-) IN DIRECT SPENDING													
DIVISION P - OTHER MATTER													
Title III - Morris K. Udall and Stewart L. Udall Foundation													
Estimated Budget Authority	*	*	*	*	*	*	*	*	*	*	*	*	
Estimated Outlays	*	*	*	*	*	*	*	*	*	*	*	*	
Title IX - Disaster Recovery Workforce													
Estimated Budget Authority	*	*	*	0	0	0	0	0	0	0	*	*	
Estimated Outlays	*	*	*	0	0	0	0	0	0	0	*	*	
Title XI - Eligibility to Receive Signals Under a Distant-Signal Satellite License													
Estimated Budget Authority	*	*	*	*	*	*	*	*	*	*	*	*	
Estimated Outlays	*	*	*	*	*	*	*	*	*	*	*	*	
Title XII - Groundfish Trawl Fishery													
Estimated Budget Authority	7	0	0	0	0	0	0	0	0	0	7	7	
Estimated Outlays	7	0	0	0	0	0	0	0	0	0	7	7	
Title XVI - Legislative Branch Inspectors General Independence													
Estimated Budget Authority	*	*	*	*	*	*	*	*	*	*	*	*	
Estimated Outlays	*	*	*	*	*	*	*	*	*	*	*	*	
Total Changes in Direct Spending													
Estimated Budget Authority	8,162	4,588	1,303	1,145	1,195	1,194	1,371	1,476	1,134	904	16,394	22,473	
Estimated Outlays	9,523	5,645	1,785	1,140	1,004	1,546	1,371	1,478	1,145	905	16,094	22,539	
On-budget outlays	6,322	5,645	1,785	1,142	1,006	1,549	1,374	1,484	1,148	909	16,099	22,558	
Off-budget outlays	0	*	-1	-2	-2	-3	-3	-3	-3	-4	-5	-21	
INCREASES OR DECREASES (-) IN REVENUES													
DIVISION I - EXTENSIONS													
Title I - Immigration Extensions													
Estimated Budget Authority	2	*	*	*	*	*	*	*	*	-1	1	-1	
Estimated Outlays	0	0	230	590	1,040	220	410	680	1,110	1,330	1,860	5,610	
Title V - Terrorism Risk Insurance Program Extension													
Estimated Budget Authority	110	110	120	120	120	130	130	130	0	0	580	970	
Estimated Outlays	110	110	120	120	120	130	130	130	0	0	580	970	
Title VIII - Brand USA Extension													
Estimated Budget Authority	186	273	256	216	175	135	77	41	3	-17	1,106	1,328	
Estimated Outlays	186	273	256	216	175	135	77	41	3	-17	1,106	1,328	
DIVISION M - BIPARTISAN AMERICAN MINERS													
Estimated Budget Authority	-1,614	-15,960	-23,690	-32,783	-37,247	-42,485	-45,774	-52,592	-58,160	-66,717	-111,293	-377,022	
Estimated Outlays	-1,614	-15,960	-23,690	-32,783	-37,247	-42,485	-45,774	-52,592	-58,160	-66,717	-111,293	-377,022	
On-budget revenues	-1,614	-13,963	-22,103	-30,070	-33,792	-38,114	-41,216	-47,301	-52,144	-59,410	-103,542	-341,927	
Off-budget revenues	*	3	-1,387	-2,712	-3,455	-4,371	-4,358	-5,092	-6,016	-7,307	-7,751	-15,095	
DIVISION O - SETTING EVERY COMMUNITY UP FOR RETIREMENT ENHANCEMENT													
Estimated Budget Authority	-863	-460	-163	-22	90	160	257	531	680	690	-1,415	886	
Estimated Outlays	-852	-448	-144	5	127	206	313	590	730	732	-7,308	1,276	
On-budget revenues	-11	-12	-19	-27	-37	-46	-51	-59	-60	-62	-167	-990	
Off-budget revenues													
DIVISION P - OTHER MATTER													
Title XI - Eligibility to Receive Signals Under a Distant-Signal Satellite License													
Estimated Budget Authority	*	*	*	*	*	*	*	*	*	*	*	*	
Estimated Outlays	*	*	*	*	*	*	*	*	*	*	*	*	
Title XVI - Legislative Branch Inspectors General Independence													
Estimated Budget Authority	*	*	*	*	*	*	*	*	*	*	*	*	
Estimated Outlays	*	*	*	*	*	*	*	*	*	*	*	*	
Total Changes in Revenues													
Estimated Budget Authority	-2,179	-16,037	-23,347	-31,879	-35,822	-41,840	-44,900	-51,210	-56,387	-64,735	-109,161	-368,229	
Estimated Outlays	-2,168	-16,028	-21,644	-29,139	-32,830	-37,423	-40,286	-46,060	-50,311	-57,366	-101,303	-332,744	
On-budget revenues	-11	-9	-1,606	-2,739	-3,492	-4,417	-4,814	-5,151	-6,076	-7,369	-7,854	-15,403	
Off-budget revenues													
NET INCREASES OR DECREASES (-) IN THE DEFICIT FROM DIRECT SPENDING AND REVENUES													
Estimated Effect on the Deficit													
Estimated Budget Authority	8,701	21,682	25,029	33,019	36,826	43,386	46,273	52,688	57,532	65,640	125,255	390,768	
Estimated Outlays	8,690	21,673	23,424	30,281	33,336	38,972	41,661	47,541	51,459	58,375	117,402	333,304	
Estimated Changes in Off-Budget Deficits ^c	11	9	1,605	2,738	3,491	4,414	4,811	5,149	6,073	7,365	7,854	15,464	

Source: Congressional Budget Office & the staff of the Joint Committee on Taxation. Estimates are relative to CBO's May 2019 baseline; components may not sum to totals because of rounding. NASA = National Aeronautics and Space Administration. * = between -\$500,000 and \$500,000.

a. As a result of those directors from the Budget Committees, the direct spending and revenue effects of divisions I through P would be subject to pay-as-you-go procedures. However, title X of division I also would require that estimated budgetary effects of divisions I through P be excluded from the pay-as-you-go scorecards maintained by the Senate and the Office of Management and Budget.

b. Any divisors or titles not listed in Table 2 would not affect direct spending or revenues.

c. Relative to the estimates that CBO published on December 16, 2019, this table reflects a correction to the split between the on- and off-budget revenue effects of division O. That change does not affect CBO's overall estimate of changes to revenues or the deficit under the legislation.

REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported:

NUMBER OF PERSONS COVERED

Persons affected by the reported bill would be limited to those involved in entering into future EUL agreements with NASA.

ECONOMIC IMPACT

Enactment of this reported bill is not expected to have a negative impact on the Nation's economy.

PRIVACY

The reported bill is not expected to have an adverse impact on the personal privacy of individuals.

PAPERWORK

The Committee does not anticipate a major increase in paperwork burdens resulting from the passage of the reported bill.

CONGRESSIONALLY DIRECTED SPENDING

In compliance with paragraph 4(b) of rule XLIV of the Standing Rules of the Senate, the Committee provides that no provisions contained in the bill, as reported, meet the definition of congressionally directed spending items under the rule.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title.

This section would provide that the bill may be cited as the "NASA Enhanced Use Leasing Extension Act of 2019".

Section 2. Extension of authority to enter into leases of non-excess property of the National Aeronautics and Space Administration.

This section would amend the sunset date listed in section 20145(g) of title 51 entitled "Lease of non-excess property", changing it from December 31, 2019, to December 31, 2021.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes made by the bill, as reported, to existing law at the time the bill was ordered 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 51—NATIONAL AND COMMERCIAL
SPACE PROGRAMS**

* * * * *

**Subtitle II—General Program and Policy
Provisions**

* * * * *

**CHAPTER 201—NATIONAL AERONAUTICS AND SPACE
PROGRAM**

* * * * *

Subchapter III—General Administrative Provisions

* * * * *

§ 20145. Lease of non-excess property

(a) * * *

(g) SUNSET.—The authority to enter into leases under this section shall expire **[December 31, 2019]** *December 31, 2021*. The expiration under this subsection of authority to enter into leases under this section shall not affect the validity or term of leases or the Administration’s retention of proceeds from leases entered into under this section before the expiration of the authority.

* * * * *