AMENDMENT NO. 1042

To: S. 896

Refer: 12

Order to be on the calendar and to be printed.

AMENDMENT intended to be proposed by Mr. COBURN to the amendment (No. 1040) proposed by Mr. REED

Viz:

1 At the end, add the following:

2 SEC. ___ FEDERAL REAL PROPERTY DISPOSAL PILOT PROGRAM.

3 (a) IN GENERAL.—Chapter 5 of subtitle I of title 40,

5 United States Code, is amended by adding at the end the following:
“SUBCHAPTER VII—EXPEDITED DISPOSAL OF REAL PROPERTY

§ 621. Definitions

“In this subchapter:

“(1) DIRECTOR.—The term ‘Director’ means the Director of the Office of Management and Budget.

“(2) EXPEDITED DISPOSAL OF A REAL PROPERTY.—The term ‘expedited disposal of a real property’ means a demolition of real property or a sale of real property for cash that is conducted under the requirements of section 545.

“(3) LANDHOLDING AGENCY.—The term ‘landholding agency’ means a landholding agency as defined under section 501(i)(3) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11411(i)(3)).

“(4) REAL PROPERTY.—

“(A) IN GENERAL.—The term ‘real property’ means—

“(i) a parcel of real property under the administrative jurisdiction of the Federal Government that is—

“(I) excess;

“(II) surplus;

“(III) underperforming; or
“(IV) otherwise not meeting the needs of the Federal Government, as determined by the Director; and
“(ii) a building or other structure located on real property described under clause (i).
“(B) EXCLUSION.—The term ‘real property’ excludes any parcel of real property or building or other structure located on such real property that is to be closed or realigned under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).
“(5) REPRESENTATIVE OF THE HOMELESS.—The term ‘representative of the homeless’ means a representative of the homeless as defined under section 501(i)(4) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11411(i)(4)).

§ 622. Pilot program
“(a) The Director of the Office of Management and Budget shall conduct a pilot program, to be known as the ‘Federal Real Property Disposal Pilot Program’, under which real property that is not meeting Federal Government needs may be disposed of in accordance with this subchapter.
“(b) The Federal Real Property Disposal Pilot Program shall terminate 5 years after the date of the enactment of this subchapter.

“§ 623. Selection of real properties

“(a) Agencies shall recommend candidate disposition real properties to the Director for participation in the pilot program established under section 622.

“(b) The Director, with the concurrence of the head of the executive agency concerned and consistent with the criteria established in this subchapter, may then select such candidate real properties for participation in the pilot program and notify the recommending agency accordingly.

“(c) The Director shall ensure that all real properties selected for disposition under this section are listed on a website that shall—

“(1) be updated routinely; and

“(2) include the functionality to allow members of the public, at their option, to receive such updates through electronic mail.

“(d) The Secretary of Housing and Urban Development shall ensure that efforts are taken to inform representaties of the homeless about—

“(1) the pilot program established under section 622; and

“(2) the website under subsection (c).
“(e) The Secretary of Housing and Urban Development shall—

“(1) make available to the public upon request all information (other than valuation information), regardless of format, in the possession of the Department of Housing and Urban Development relating to the properties listed on the website under subsection (c), including environmental assessment data; and

“(2) maintain a current list of agency contacts for making referrals to inquiries for information relating to specific properties.

§ 624. Suitability determination

“(a) After the Director selects the candidate real properties that may participate in the pilot program under section 623, the Secretary of Housing and Urban Development shall determine whether each such real property is suitable for use to assist the homeless.

“(b) The Secretary of Housing and Urban Development shall base the suitability determination required under subsection (a)—

“(1) on the suitability criteria identified by the Secretary of Housing and Urban Development under section 501(a) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11411(a));
“(2) for real properties located within a Federal installation, campus, or compound, on whether such property can easily be transported to an off-site location; and

“(3) for real properties where the predominant use is other than housing, on whether the size of the real property is equal to or greater than 100,000 square feet.

“(c) Immediately after a determination of suitability is made under this section, the Director shall publish, on the website described in section 623(e) the following information:

“(1) The address of each such real property.

“(2) The result of the suitability determination required under subsection (a) for each such real property.

“(3) The date on which the suitability determination was made.

“§ 625. Unsuitable real property

“(a) If a real property is determined unsuitable under section 624, such real property may not be disposed of or otherwise used for any other purpose for at least 20 days after such determination was made.

“(b)(1) Not later than 20 days after a real property has been determined unsuitable under section 624 and be-
fore disposal of the real property in accordance with subsection (d), any representative of the homeless may appeal to the Secretary of Housing and Urban Development for a secondary review of such determination.

“(2) Not later than 20 days after a real property has been determined unsuitable under subsection (b)(3) of section 624, the Secretary of Housing and Urban Development shall deem such real property suitable notwithstanding the requirements of that subsection if a representative of the homeless has produced clear and convincing evidence that such property can be utilized for the benefit of the homeless. Any determination under this paragraph shall be committed to the unreviewable discretion of the Secretary of Housing and Urban Development.

“(c) Not later than 20 days after the receipt of any appeal under subsection (b), the Secretary of Housing and Urban Development shall respond to such appeal and shall make a final suitability determination regarding the real property.

“(d)(1) If at the end of the 20-day period required under subsection (a), no appeal for review of a determination of unsuitability is received by the Secretary of Housing and Urban Development, such real property shall be disposed of in accordance with section 627.
“(2) If after conducting a secondary review of a determination of unsuitability under subsection (b), the Secretary of Housing and Urban Development determines that the real property remains unsuitable under subsection (c), such real property shall be disposed of in accordance with section 627.

“(3) If after conducting a secondary review of a determination of unsuitability under subsection (b), the Secretary of Housing and Urban Development determines that the real property is suitable under subsection (c), such real property shall be treated as suitable property for purposes of section 626.

§ 626. Suitable real property

“(a)(1) If a real property is determined suitable under section 624 or upon a secondary review under section 625(d), any representative of the homeless shall have not more than 90 days after such determination to submit an application to the Secretary of Health and Human Services for the transfer of the real property to that representative. If an application cannot be completed within the 90-day period due to non-material factors, the Secretary of Health and Human Services, with the concurrence of the appropriate landholding agency, may grant reasonable extensions.
“(2) If at the end of the time period described under paragraph (1), no representative of the homeless has submitted an application, such real property shall be disposed of in accordance with section 627.

“(b)(1) Not later than 20 days after the receipt of any application under subsection (a)(1), the Secretary of Health and Human Services shall assess such application and determine whether to approve or deny the request for the transfer of the real property to such applicant.

“(2) If the application of a representative of the homeless is denied by the Secretary of Health and Human Services under paragraph (1), such real property shall be disposed of in accordance with section 627.

“(3) If the application of a representative of the homeless is approved by the Secretary of Health and Human Services under paragraph (1), such real property shall be made promptly available to that representative by permit or lease, or by deed, as a public health use under subsections (a) through (d) of section 550.

“§ 627. Expedited disposal requirements

“(a) Real property sold under the pilot program established under this subchapter shall be sold at not less than the fair market value, as determined by the Director in consultation with the head of the executive agency. Costs associated with such disposal may not exceed the
fair market value of the property unless the Director ap-
proves incurring such costs.

"(b) A real property may be sold under the pilot pro-
gram established under this subchapter only if the prop-
erty will generate monetary proceeds to the Federal Gov-
ernment, as provided in subsection (a). A disposal of real
property under the pilot program may not include any ex-
change, trade, transfer, acquisition of like-kind property,
or other non-cash transaction as part of the disposal.

"(c) Nothing in this subchapter shall be construed
as terminating or in any way limiting authorities that are
otherwise available to agencies under other provisions of
law to dispose of Federal real property, except as provided
in subsection (d).

"(d) Any expedited disposal of a real property con-
ducted under this subchapter shall not be subject to—

"(1) subchapter IV of this chapter;

"(2) sections 550 and 553 of this title;

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

"(4) any other provision of law authorizing the
no-cost conveyance of real property owned by the
Federal Government; or

"(5) any congressional notification requirement
other than that in section 545.
§628. Special rules for deposit and use of proceeds from disposal of real property

(a) Agencies that conduct the disposal of real properties under this subchapter shall be reimbursed from the proceeds, if any, from such disposal for the administrative expenses associated with such disposal. Such amounts shall be credited as offsetting collections to the account that incurred such expenses, to remain available until expended.

(b)(1) After payment of such administrative costs, the balance of the proceeds shall be distributed as follows:

(A) 80 percent shall be deposited into the Treasury as miscellaneous receipts.

(B) 20 percent shall be deposited into the account of the agency that owned the real property and initiated the disposal action.

(2) Funds deposited under paragraph (1)(B) shall remain available until expended for the period of the pilot program, for activities related to Federal real property capital improvements and disposal activities. Upon termination of the pilot program, any unobligated amounts shall be transferred to the general fund of the Treasury.

§629. Limitation on number of permissible cash sales

The total number of cash sales of real properties to be disposed of under this subchapter over the 5-year
term of the Federal Real Property Disposal Pilot Program shall not exceed 750.

§ 630. Government Accountability Office study

(a) Not later than 36 months after the date of enactment of this subchapter, the Comptroller General of the United States shall submit to Congress and make publicly available a study of the effectiveness of the pilot program.

(b) The study described under subsection (a) shall include at a minimum—

(1) recommendations for permanent reforms to statutes governing real property disposals and no cost conveyances; and

(2) recommendations for improving the permanent process by which Federal properties are made available for use by the homeless.

(b) Technical and Conforming Amendment.—

The table of sections for chapter 5 of subtitle I of title 40, United States Code, is amended by inserting after the item relating to section 611 the following:

SUBCHAPTER VII—EXPEDITED DISPOSAL OF REAL PROPERTY

"Sec. 621. Definitions.
"Sec. 622. Pilot program.
"Sec. 623. Selection of real properties.
"Sec. 624. Suitability determination.
"Sec. 625. Unsuitable real property.
"Sec. 626. Suitable real property.
"Sec. 627. Expedited disposal requirements.
"Sec. 628. Special rules for deposit and use of proceeds from disposal of real property.
"Sec. 629. Limitation on number of permissible cash sales.
"Sec. 630. Government Accountability Office study."