

*Tom U. Coburn* S.L.C.

**PENDING**

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: To establish a pilot program for the expedited disposal of Federal real property.

IN THE SENATE OF THE UNITED STATES—111th Cong., 1st Sess.

**S. 896**

**AMENDMENT NO 1042**

To: By Coburn \_\_\_\_\_ age

To: Amdt. No. 1040  
S. 896

Refer \_\_\_\_\_ 12 \_\_\_\_\_ and  
Page(s)

GPO: 2008 45-603 (mac)

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 PRO-**
- 3 **GRAM.**
- 4 (a) IN GENERAL.—Chapter 5 of subtitle I of title 40,
- 5 United States Code, is amended by adding at the end the
- 6 following:

1 “SUBCHAPTER VII—EXPEDITED DISPOSAL OF  
2 REAL PROPERTY

3 “§ 621. Definitions

4 “In this subchapter:

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

8 “(2) EXPEDITED DISPOSAL OF A REAL PROP-  
9 erty.—The term ‘expedited disposal of a real prop-  
10 erty’ means a demolition of real property or a sale  
11 of real property for cash that is conducted under the  
12 requirements of section 545.

13 “(3) LANDHOLDING AGENCY.—The term ‘land-  
14 holding agency’ means a landholding agency as de-  
15 fined under section 501(i)(3) of the McKinney-Vento  
16 Homeless Assistance Act (42 U.S.C. 11411(i)(3)).

17 “(4) REAL PROPERTY.—

18 “(A) IN GENERAL.—The term ‘real prop-  
19 erty’ means—

20 “(i) a parcel of real property under  
21 the administrative jurisdiction of the Fed-  
22 eral Government that is—

23 “(I) excess;

24 “(II) surplus;

25 “(III) underperforming; or

1                   “(IV) otherwise not meeting the  
2                   needs of the Federal Government, as  
3                   determined by the Director; and

4                   “(ii) a building or other structure lo-  
5                   cated on real property described under  
6                   clause (i).

7                   “(B) EXCLUSION.—The term ‘real prop-  
8                   erty’ excludes any parcel of real property or  
9                   building or other structure located on such real  
10                  property that is to be closed or realigned under  
11                  the Defense Base Closure and Realignment Act  
12                  of 1990 (part A of title XXIX of Public Law  
13                  101–510; 10 U.S.C. 2687 note).

14                  “(5) REPRESENTATIVE OF THE HOMELESS.—  
15                  The term ‘representative of the homeless’ means a  
16                  representative of the homeless as defined under sec-  
17                  tion 501(i)(4) of the McKinney-Vento Homeless As-  
18                  sistance Act (42 U.S.C. 11411(i)(4)).

19   **“§ 622. Pilot program**

20                  “(a) The Director of the Office of Management and  
21                  Budget shall conduct a pilot program, to be known as the  
22                  ‘Federal Real Property Disposal Pilot Program’, under  
23                  which real property that is not meeting Federal Govern-  
24                  ment needs may be disposed of in accordance with this  
25                  subchapter.

1           “(b) The Federal Real Property Disposal Pilot Pro-  
2 gram shall terminate 5 years after the date of the enact-  
3 ment of this subchapter.

4           **“§ 623. Selection of real properties**

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

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

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

16                   “(1) be updated routinely; and

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

20           “(d) The Secretary of Housing and Urban Develop-  
21 ment shall ensure that efforts are taken to inform rep-  
22 resentatives of the homeless about—

23                   “(1) the pilot program established under section  
24 622; and

25                   “(2) the website under subsection (c).

1           “(e) The Secretary of Housing and Urban Develop-  
2 ment shall—

3           “(1) make available to the public upon request  
4 all information (other than valuation information),  
5 regardless of format, in the possession of the De-  
6 partment of Housing and Urban Development relat-  
7 ing to the properties listed on the website under sub-  
8 section (c), including environmental assessment  
9 data; and

10           “(2) maintain a current list of agency contacts  
11 for making referrals to inquiries for information re-  
12 lating to specific properties.

13 **“§ 624. Suitability determination**

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

19           “(b) The Secretary of Housing and Urban Develop-  
20 ment shall base the suitability determination required  
21 under subsection (a)—

22           “(1) on the suitability criteria identified by the  
23 Secretary of Housing and Urban Development under  
24 section 501(a) of the McKinney-Vento Homeless As-  
25 sistance Act (42 U.S.C. 11411(a));

1           “(2) for real properties located within a Federal  
2           installation, campus, or compound, on whether such  
3           property can easily be transported to an off-site lo-  
4           cation; and

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

9           “(c) Immediately after a determination of suitability  
10          is made under this section, the Director shall publish, on  
11          the website described in section 623(c) the following infor-  
12          mation:

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

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

17           “(3) The date on which the suitability deter-  
18          mination was made.

19          **“§ 625. Unsuitable real property**

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

24           “(b)(1) Not later than 20 days after a real property  
25          has been determined unsuitable under section 624 and be-

1 fore disposal of the real property in accordance with sub-  
2 section (d), any representative of the homeless may appeal  
3 to the Secretary of Housing and Urban Development for  
4 a secondary review of such determination.

5       “(2) Not later than 20 days after a real property has  
6 been determined unsuitable under subsection (b)(3) of sec-  
7 tion 624, the Secretary of Housing and Urban Develop-  
8 ment shall deem such real property suitable notwith-  
9 standing the requirements of that subsection if a rep-  
10 resentative of the homeless has produced clear and con-  
11 vincing evidence that such property can be utilized for the  
12 benefit of the homeless. Any determination under this  
13 paragraph shall be committed to the unreviewable discre-  
14 tion of the Secretary of Housing and Urban Development.

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

20       “(d)(1) If at the end of the 20-day period required  
21 under subsection (a), no appeal for review of a determina-  
22 tion of unsuitability is received by the Secretary of Hous-  
23 ing and Urban Development, such real property shall be  
24 disposed of in accordance with section 627.

1       “(2) If after conducting a secondary review of a de-  
2 termination of unsuitability under subsection (b), the Sec-  
3 retary of Housing and Urban Development determines  
4 that the real property remains unsuitable under subsection  
5 (c), such real property shall be disposed of in accordance  
6 with section 627.

7       “(3) If after conducting a secondary review of a de-  
8 termination of unsuitability under subsection (b), the Sec-  
9 retary of Housing and Urban Development determines  
10 that the real property is suitable under subsection (c),  
11 such real property shall be treated as suitable property  
12 for purposes of section 626.

13       **“§ 626. Suitable real property**

14       “(a)(1) If a real property is determined suitable  
15 under section 624 or upon a secondary review under sec-  
16 tion 625(d), any representative of the homeless shall have  
17 not more than 90 days after such determination to submit  
18 an application to the Secretary of Health and Human  
19 Services for the transfer of the real property to that rep-  
20 resentative. If an application cannot be completed within  
21 the 90-day period due to non-material factors, the Sec-  
22 retary of Health and Human Services, with the concur-  
23 rence of the appropriate landholding agency, may grant  
24 reasonable extensions.

1           “(2) If at the end of the time period described under  
2 paragraph (1), no representative of the homeless has sub-  
3 mitted an application, such real property shall be disposed  
4 of in accordance with section 627.

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

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

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

20       **“§ 627. Expedited disposal requirements**

21          “(a) Real property sold under the pilot program es-  
22 tablished under this subchapter shall be sold at not less  
23 than the fair market value, as determined by the Director  
24 in consultation with the head of the executive agency.  
25 Costs associated with such disposal may not exceed the

1 fair market value of the property unless the Director ap-  
2 proves incurring such costs.

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

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

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

17               “(1) subchapter IV of this chapter;

18               “(2) sections 550 and 553 of this title;

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

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

24               “(5) any congressional notification requirement  
25 other than that in section 545.

1 **“§ 628. Special rules for deposit and use of proceeds**  
2 **from disposal of real property**

3 “(a) Agencies that conduct the disposal of real prop-  
4 erties under this subchapter shall be reimbursed from the  
5 proceeds, if any, from such disposal for the administrative  
6 expenses associated with such disposal. Such amounts  
7 shall be credited as offsetting collections to the account  
8 that incurred such expenses, to remain available until ex-  
9 pended.

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

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

14 “(B) 20 percent shall be deposited into the ac-  
15 count of the agency that owned the real property  
16 and initiated the disposal action.

17 “(2) Funds deposited under paragraph (1)(B) shall  
18 remain available until expended for the period of the pilot  
19 program, for activities related to Federal real property  
20 capital improvements and disposal activities. Upon termi-  
21 nation of the pilot program, any unobligated amounts  
22 shall be transferred to the general fund of the Treasury.

23 **“§ 629. Limitation on number of permissible cash**  
24 **sales**

25 “The total number of cash sales of real properties  
26 to be disposed of under this subchapter over the 5-year

1 term of the Federal Real Property Disposal Pilot Program  
2 shall not exceed 750.

3 **“§ 630. Government Accountability Office study**

4 “(a) Not later than 36 months after the date of en-  
5 actment of this subchapter, the Comptroller General of the  
6 United States shall submit to Congress and make publicly  
7 available a study of the effectiveness of the pilot program.

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

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

13 “(2) recommendations for improving the perma-  
14 nent process by which Federal properties are made  
15 available for use by the homeless.”.

16 (b) TECHNICAL AND CONFORMING AMENDMENT.—  
17 The table of sections for chapter 5 of subtitle I of title  
18 40, United States Code, is amended by inserting after the  
19 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.”.