

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the "Federal Capital Revolving Fund Act of 2018".

3 **SEC. 2. FINDINGS AND PURPOSE.**

4 (a) FINDINGS.—The Congress makes the following findings:

5 (1) State and local governments maintain a capital budget separate from their
6 operating budget and successfully use the capital budget to evaluate, rank, and fund
7 investments in capital assets.

8 (2) The Federal Government's failure to budget for capital acquisitions separately
9 from operating expenses puts investment in federally-owned capital assets at a
10 disadvantage in the current Federal budget process.

11 (3) Spikes in funding for purchases of federally-owned capital assets are difficult
12 to fit within funding available under discretionary spending limits.

13 (4) Failure to recapitalize or replace Federal capital assets on a regular schedule
14 ultimately increases the cost to taxpayers of delivering services.

15 (5) The Office of Management and Budget (Circular A-11, Appendix J, Principles
16 of Budgeting for Capital Asset Acquisitions) recommends combining assets in capital
17 acquisition accounts to accommodate spikes in funding capital acquisitions.

18 (6) The Congressional Budget Office (Capital Budgeting, May 2008) identifies
19 capital acquisition funds as a potential option for reflecting capital costs in agencies'
20 budgets while retaining full, up-front recognition of cost in the budget.

21 (7) The Government Accountability Office (GAO-14-239) found that budgeting
22 for federally-owned capital could be improved by creating a government-wide capital
23 acquisition fund with up-front mandatory funding to pay for projects estimated to exceed
24 a certain total cost threshold, to be repaid by annual discretionary funding provided by
25 agencies' subcommittee appropriators.

26 (b) PURPOSE.—The purpose of this legislation is to improve how the Federal Government
27 budgets for expensive federally owned civilian facilities by making two basic innovations to
28 traditional budgeting—

29 (1) create a mandatory revolving fund to pay the up-front cost of acquiring
30 expensive facilities so that the acquisition costs do not compete with smaller purchases
31 and operating expenses for funding under the discretionary spending limits; and

(2) require agencies to use discretionary appropriations to replenish the revolving fund over several years as they use facilities to meet their Federal mission needs.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(a) ADMINISTRATOR.—The term "Administrator" means the Administrator of the General Services Administration (GSA).

(b) AGENCY.—The term "agency" means any of the agencies listed in section 901(b) of Title 31, United States Code except that the term shall not include the Department of Defense.

(c) DIRECTOR.—The term "Director" means the Director of the Office of Management and Budget.

(d) DISCRETIONARY APPROPRIATIONS AND DIRECT SPENDING.—The terms "discretionary appropriations" and "direct spending" have the same meaning as in section 250(c) of the Balanced Budget and Emergency Deficit Control Act of 1985.

(e) FEDERAL FACILITY.—The term "Federal facility" means any interest in land, together with the improvements, structures, and fixtures located thereon having a useful life of at least 25 years and in which Federal personnel perform the agency mission.

(f) FUND.—The term "Fund" means the Federal Capital Revolving Fund established pursuant to section 4.

(g) PROJECT.—The term "project" means—

(1) a Federal facility acquired by an agency for its use (including site, design, management and inspection, construction, and commissioning) whether by purchase, construction, manufacture, lease-purchase, installment purchase, outlease-leaseback, exchange, or modernization by renovation; which may include purchases of associated furniture, fixtures, and equipment necessary to furnish the Federal facility for initial occupancy; and

(2) a one-time administrative fee to be paid to the Administrator, of .03 percent of the total cost of paragraph (1);
with a combined total cost of at least \$250,000,000. The term excludes items acquired for resale in the ordinary course of operations, consumable goods such as operating materials and supplies, normal maintenance and repair of real property, salaries and other operating expenses of agencies, grants to non-Federal entities, tax incentives, Federal credit assistance provided to non-

1 Federal entities, and capital leases pursuant to which title does not automatically pass to the
2 Government.

3 (h) PURCHASE TRANSFER.—The term "purchase transfer" means an amount approved by
4 an appropriations Act to be transferred from the Fund, to remain available until expended, to pay
5 for the costs of a project. The amount must be sufficient to pay for the full costs, at a minimum,
6 of a useful segment of a Federal facility and the administrative fee.

7 (i) PURCHASING AGENCY.—The term "purchasing agency" means an agency that receives
8 a purchase transfer from the Fund to pay the full costs of a project.

9 **SEC. 4. ESTABLISHMENT OF FEDERAL CAPITAL REVOLVING FUND.**

10 There is hereby established in the Treasury a Federal Capital Revolving Fund to pay for
11 the costs of projects approved pursuant to this Act.

12 (a) ADMINISTRATION OF FUND.—The Fund is subject to the supervision of the
13 Administrator in accordance with this Act.

14 (b) PERMISSIBLE USES.—Amounts in the Fund are available only for transfer to
15 purchasing agencies to pay for the costs of approved projects.

16 (c) PRIOR APPROVAL OF PURCHASE TRANSFERS.—Amounts in the Fund shall be
17 transferred to a purchasing agency to pay for the costs of a project when—

18 (1) a purchase transfer to fund the project is approved in advance by an
19 appropriations Act;

20 (2) the purchasing agency has received an appropriation for the first repayment
21 amount and has made the first repayment to the Fund; and

22 (3) the project is designated by Congress in statute as an approved project and the
23 President subsequently so designates.

24 (d) PURCHASE TRANSFER LIMIT.—Notwithstanding the amount approved by an
25 appropriations Act for a purchase transfer, if the amount available to the purchasing agency for
26 the first repayment amount is less than the amount required by section 6(c), the amount
27 transferred from the Fund shall be equal to the product of the first repayment amount and the
28 number of years in the repayment period.

29 (e) HIGHER PROJECT COST.—If a purchase transfer from the Fund is approved by an
30 appropriations Act, but the approved amount is insufficient to pay the full costs of the project,
31 then no amounts in excess of the approved amount may be transferred from the Fund to the

1 purchasing agency for the difference (between the approved amount and the full costs of the
2 project) unless approved in advance by an appropriations Act and the purchasing agency has
3 received an appropriation of an additional amount for the adjustment to the repayment amount,
4 calculated pursuant to section 6(c)(2) and has paid such additional amount to the Fund.

5 (f) ANNUAL LIMITATION ON TOTAL PURCHASE TRANSFERS.—Total new purchase
6 transfers approved in appropriations Acts shall not exceed \$2,500,000,000 per year plus any
7 cumulative unused limitation in prior fiscal years.

8 (g) EXCESS PURCHASE TRANSFER AMOUNTS.— If for any year the sum of approved
9 purchase transfers exceeds the amounts available in the Fund or the annual limitation specified in
10 subsection (f), each transfer amount approved by such appropriations Acts shall be reduced by a
11 uniform percentage calculated by the Administrator such that the excess is eliminated, and the
12 Administrator shall not transfer more than the reduced purchase transfer amount calculated for
13 each project.

14 (h) PAYMENT OF ONE-TIME ADMINISTRATIVE FEE. —Upon receipt of the purchase transfer,
15 the purchasing agency shall pay the Administrator from the purchase transfer the one-time
16 administrative fee.

17 **SEC. 5. FUNDING.**

18 (a) APPROPRIATION TO FUND.—The following amounts are hereby appropriated, and shall
19 be deposited into the Fund—

20 (1) \$10,000,000,000 from amounts in the Treasury not otherwise appropriated, to
21 capitalize the Fund; and

22 (2) repayment amounts received from a purchasing agency.

23 (b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to
24 purchasing agencies such sums as may be necessary for repayment amounts under section 6(c).

25 (c) AVAILABILITY OF FUND.—Amounts deposited into the Fund shall remain available
26 until expended.

27 **SEC. 6. REPAYMENTS BY PURCHASING AGENCIES.**

28 (a) REQUIREMENT TO REPAY FUND.—Purchase transfers from the Fund to pay for the
29 costs of an approved project shall not be made unless the purchasing agency enters into an
30 agreement with the Administrator, in writing, to repay the Fund consistent with this Act. An
31 appropriation provided by the Congress to a purchasing agency consistent with this Act for

1 repayment to the Fund for any year will constitute a legal obligation of the purchasing agency in
2 that year for repayment to the Fund equal to the repayment amount available for that year.

3 (b) REPAYMENT PERIOD.—To recapitalize the Fund, each purchasing agency shall,
4 subject to appropriation, make annual repayments to the Fund for any approved project over a
5 period agreed to by the purchasing agency and the Administrator, but not to exceed 15 years,
6 beginning in the year that the project is approved by an appropriations Act and the first
7 repayment is appropriated.

8 (c) REPAYMENT AMOUNT.—The annual repayment amount to recapitalize the Fund shall
9 be a level amount equal to the purchase transfer divided by the number of years in the repayment
10 period.

11 (1) TIMING OF REPAYMENTS.—Each repayment amount shall be paid to the Fund
12 in the year for which it is appropriated.

13 (2) ADJUSTMENTS TO REPAYMENT AMOUNTS.—After the first repayment amount
14 for a project is paid to the Fund, the Administrator shall adjust each remaining repayment
15 amount by a uniform amount so that the sum of the repayment amounts, including
16 repayment amounts already paid to the Fund, equals the actual cost of the project,
17 whenever—

18 (A) the actual cost is less than the purchase transfer from the Fund;

19 (B) the actual cost is higher than the purchase transfer and an additional
20 purchase transfer for the difference has been approved in advance in an
21 appropriations Act;

22 (C) repayments by the purchasing agency exceed the annual repayment
23 amount; or

24 (D) the purchase transfer amount is reduced under section 4(g).

25 (d) DISPOSITION OF PROJECT.—The following requirements apply to the disposition of
26 any project that is funded by a purchase transfer:

27 (1) Disposition of the project shall be accomplished in accordance with any
28 applicable authorities.

29 (2) If the disposition of the project occurs before the purchasing agency has
30 completely repaid the Fund, the purchasing agency shall, subject to appropriation,
31 continue to make repayments until the Fund is fully repaid.

1 (3) If the disposition of the project results in the receipt of sale proceeds, such
2 receipts shall be available—

3 (A) first, to the purchasing agency to pay any remaining unpaid repayment
4 amounts owed by the purchasing agency for the project; and

5 (B) second, to the purchasing agency, or to the GSA in the case of a
6 project held in the GSA inventory, to support authorized real property activities
7 excluding operations and maintenance.

8 Such receipts shall be available until expended, without further appropriation, and may be
9 deposited in any account of the applicable agency that is available for the purposes
10 described in subparagraphs (A) and (B).

11 (e) CHANGE IN NEED FOR OR CONDITION OF ASSET.—Any change in the purchasing
12 agency's mission need for the project or in the condition of the project does not alter the
13 repayment requirements in section 6.

14 **SEC. 7. TRANSFERS BETWEEN FUND AND PURCHASING AGENCIES.**

15 (a) EXPENDITURE TRANSFERS.—All purchase transfers to purchasing agencies, payments
16 of the one-time administrative fee, and transfers of repayment amounts to the Fund shall be
17 expenditure transfers and shall be recorded as such.

18 (b) AVAILABILITY AND PURPOSE.—Subject to subsection (c), purchase transfers to
19 purchasing agencies shall remain available until expended solely to pay for the costs of approved
20 projects and may not be transferred or reprogrammed for any other purpose.

21 (c) RETURN OF UNUSED PURCHASE TRANSFER AMOUNTS.—Any portion of a purchase
22 transfer that is not necessary to pay for the total cost of a project shall be returned to the Fund as
23 follows:

24 (1) Unobligated purchase transfer amounts shall be returned to the Fund only after
25 the Federal facility is substantially complete and within the two year period following the
26 date on which the most recent outlay of purchase transfer funds by the agency occurred.

27 (2) If, after the return of the unused purchase transfer amounts pursuant to
28 paragraph (1) occurs, there is an upward adjustment to a previously incurred project
29 obligation, the Fund shall provide an expenditure transfer for such upward adjustment to
30 the appropriate agency account of the lower of the amount returned pursuant to paragraph
31 (1) and the amount of the upward adjustment to the previously incurred obligation.

1 (d) ESTABLISHING NEW ACCOUNTS.—The Secretary of the Treasury, in consultation with
2 the Director, may establish new accounts within each purchasing agency that receives a purchase
3 transfer from the Fund for the purpose of facilitating budgetary and financial reporting of the
4 transactions authorized by this Act.

5 **SEC. 8. BUDGET ENFORCEMENT.**

6 The following rules shall apply to budget enforcement under the Congressional Budget
7 Act of 1974, the Balanced Budget and Emergency Deficit Control Act of 1985, and the Statutory
8 Pay-As-You-Go Act of 2010.

9 (a) DIRECT SPENDING.—Provisions of appropriations Acts approving purchase transfers
10 from the Fund to purchasing agencies and collections by the Fund of repayments from
11 purchasing agencies, shall be considered direct spending and shall not be included in the
12 estimates under section 251(a)(7) of the Balanced Budget and Emergency Deficit Control Act of
13 1985 or considered budgetary effects for the purposes of section 3(4) of the Statutory Pay-As-
14 You-Go Act of 2010.

15 (b) DISCRETIONARY APPROPRIATIONS.—Appropriations to purchasing agencies for annual
16 repayments to the Fund shall be considered discretionary appropriations and shall be scored in
17 the year for which such appropriations are made available by an appropriations Act.

18 (c) CHANGES TO FUND BALANCE.—Any provision enacted in an appropriations Act
19 that—

20 (1) rescinds or precludes from obligation balances in the Fund;

21 (2) rescinds or precludes from obligation balances of approved purchase transfers;

22 or

23 (3) reduces the annual limitation on total purchase transfers in section 4(f),
24 shall be considered budgetary effects for purposes of the Statutory Pay-As-You-Go Act of 2010
25 and shall not be included in the estimates under section 251(a)(7) of the Balanced Budget and
26 Emergency Deficit Control Act of 1985. Such budgetary effects shall be placed on the Office of
27 Management and Budget PAYGO scorecards defined in section 4(d) of that Act and on the
28 PAYGO scorecard maintained for purposes of section 4106 of H. Con. Res. 71 (115th Congress).

29 (d) FAILURE TO APPROPRIATE REPAYMENTS.—If a bill making appropriations for a fiscal
30 year provides a first repayment amount for an approved project and such appropriations bill for a
31 subsequent fiscal year during the repayment period fails to provide the repayment amount

1 required for that fiscal year, an amount equal to the required repayment, calculated pursuant to
2 section 6(c), shall nevertheless be included in the estimates under section 251(a)(7) of the
3 Balanced Budget and Emergency Deficit Control Act of 1985.

4 (e) TRANSFERS AND REPROGRAMMING.—If, notwithstanding section 7(b), a provision in
5 an appropriations Act authorizes or requires—

6 (1) a transfer of balances in the Fund for any purpose other than to cover the costs
7 of projects approved pursuant to this Act; or

8 (2) a purchasing agency to transfer or reprogram a purchase transfer for a purpose
9 other than paying the costs of projects approved pursuant to this Act,

10 such amount shall be included in the estimates of discretionary appropriations under section
11 251(a)(7) of the Balanced Budget and Emergency Deficit Control Act of 1985.

12 **SEC. 9. REQUIREMENTS FOR PROJECTS TO BE HELD IN THE GSA INVENTORY.**

13 In addition to any other existing requirements in law, the requirements in this section
14 shall apply only to any purchase transfer to a purchasing agency that acquires real property space
15 and services through the GSA. This Act neither provides new real property landholding or
16 landmanaging authority to such purchasing agency nor otherwise affects any agency's existing
17 real property landholding or landmanaging authority.

18 (a) APPROVED PROJECTS.—If an appropriations Act approves a purchase transfer to a
19 purchasing agency other than the GSA for the costs of a project to be held in the GSA inventory,
20 the following requirements shall apply.

21 (1) The purchasing agency shall immediately pay the purchase transfer amount,
22 excluding any amount included for furniture, fixtures, and equipment, to the
23 Administrator for deposit into the Federal Buildings Fund.

24 (2) The Administrator shall use such purchase transfer only to pay the costs of the
25 approved project. The Administrator shall not charge a fee beyond the one-time
26 administrative fee for the execution of the project.

27 (3) The project shall be under the custody and control of the Administrator.

28 (4) The occupancy agreement that the purchasing agency enters into with the
29 GSA will recognize the purchasing agency's investment in the project by providing for
30 shell rent abatement, as follows:

31 (A) Rent payments to GSA start with occupancy.

1 (B) Rent payments to GSA shall equal operating costs only for the first
2 five years (shell rent abatement).

3 (C) For years 6 through 25, rent payments shall equal operating costs plus
4 a reduced shell rent negotiated between GSA and the agency such that the
5 cumulative difference between the appraised market rent rate and operating rent
6 equals the purchase transfer.

7 (D) The cumulative rent abatement shall not exceed the purchase transfer
8 amount.

9 (5) The purchasing agency shall continue to be responsible for making annual
10 repayments to the Fund in accordance with section 6(b).

11 **SEC. 10. SEQUESTRATION.**

12 Section 255(g)(1)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985
13 (2 U.S.C. 905(g)(1)(A)) is amended by inserting "Federal Capital Revolving Fund (47-4614-0-4-
14 804)" after "Farm Credit System Insurance Corporation, Farm Credit Insurance Fund (78-4171-
15 0-3-351)".

SECTIONAL ANALYSIS FOR THE FEDERAL CAPITAL REVOLVING FUND ACT OF 2018

Proposal: The goal of this legislation is to create a new Federal Capital Revolving Fund (FCRF) within the unified budget that would function effectively as a capital budget for investment in federally-owned civilian real property and implement budget enforcement rules that exclude the up-front acquisition cost from the discretionary caps and instead charge the cost to discretionary funding over several years as the assets are used to provide services. The FCRF would be capitalized by an appropriation of \$10 billion, with obligations limited to \$2.5 billion per year. The FCRF would transfer funds to purchasing agencies to cover the cost of acquiring real property and necessary furniture fixtures and equipment as well as a minimal administrative fee, and purchasing agencies would repay the FCRF in equal installments over a period not to exceed 15 years. Repayments to the FCRF would revolve and be available to fund additional future purchases. The FCRF could transfer funds to a purchasing agency only if the acquisition is first approved in an appropriations Act and the Act includes funding for the agency's first annual repayment to the FCRF. For budget enforcement purposes, transfers from the FCRF to agencies to fund acquisitions and spending of those amounts by agencies would be scored as direct spending, while agencies would use discretionary appropriations to fund annual repayments to the FCRF. This allocation of cost means that the up-front cost of capital investment would be included in the budget, but the up-front expense would not have to compete with operating expenses in the annual appropriations process. By limiting total funding available to the FCRF and requiring agencies to use discretionary appropriations to repay the FCRF provides an incentive for agencies, OMB, and the Congress to select projects with the highest returns. OMB would review agencies' proposed projects, and the Appropriations Committees would make final allocations by authorizing projects in annual appropriations Acts. This would allow for a more effective capital planning process that is similar to capital budgets used by private companies and State and local governments, where capital spending is separated from operating expenses, and decisions about the allocation of funding to capital projects is made in the capital budget. The FCRF does not provide any new landholding or land-managing authorities for Federal agencies. For those agencies that rely on GSA to provide space and services, GSA will act as construction agent and the facility will be under the custody and control of GSA.

SEC. 1. SHORT TITLE. This section states the title of the Act as the "Federal Capital Revolving Fund Act of 2018".

SEC. 2. FINDINGS AND PURPOSE. This section states the Congress' findings and the purpose of the Act.

SEC. 3. DEFINITIONS. This section defines terms used throughout the Act.

SEC. 4. ESTABLISHMENT OF THE FEDERAL CAPITAL REVOLVING FUND. This section establishes the FCRF in the General Services Administration, specifies allowable uses of

the FCRF, a requirement for prior approval of projects by the Appropriations Committee and designation by the President, appropriations for the first of up to 15 annual repayment amounts before funds can be used to acquire a project, limitations on projects, an annual limitation on aggregate total purchase transfers from the Fund to purchasing agencies, impacts of excess purchase transfer amounts, and the payment of a one-time administrative fee to support the administration of the FCRF.

SEC. 5. FUNDING. This section appropriates \$10 billion to capitalize the FCRF and authorizes the FCRF to use repayments from purchasing agencies to fund additional capital acquisitions.

SEC. 6. REPAYMENTS BY PURCHASING AGENCIES. This section requires purchasing agencies to repay the FCRF over a period not to exceed 15 years and defines the repayment amount as the full cost of the acquisition divided by the number of years in the repayment period plus an administrative fee. Change in the need for or condition of the asset does not alter the repayment requirements. Proceeds from the sale of such assets must first be used to repay the FCRF, and any sale proceeds in excess of this amount would remain available to the purchasing agency (or to GSA in the case of a project held in the GSA inventory) to support real property activities excluding operations and maintenance. Receipts shall be available until expended, without further appropriation.

SEC. 7. TRANSFERS BETWEEN FUND AND PURCHASING AGENCY. This section clarifies that transfers between the Fund and purchasing agencies shall be recorded in the budget as expenditure transfers, will remain available until expended solely to pay for the cost of approved projects, and unused amounts will be returned to the FCRF. Any unused portion of the purchase transfer amount, not necessary to pay for the total costs of the project shall be returned to the Fund after occupancy. New accounts may be established for the purpose of facilitating budgetary and financial reporting of the transactions authorized by this Act.

SEC. 8. BUDGET ENFORCEMENT. This section specifies how transactions between the Fund and purchasing agencies are scored for budget enforcement. Appropriations to agencies to repay the FCRF would be scored as discretionary. All other transactions would be scored as direct spending. Failure to appropriate the required repayment amounts would be charged as a discretionary cost to appropriations Acts. Enacted rescissions of FCRF balances, rescissions of balances of transfers for approved purchases, and reductions in the annual limit on total transfers from the Fund to pay for the costs of projects would be scored as PAYGO costs. As a result, the up-front purchase of capital assets would be included in the deficit, but the total cost would be addressed over time through the annual appropriations process.

SEC. 9. REQUIREMENTS FOR PROJECTS TO BE HELD IN THE GSA INVENTORY: This section applies only to purchasing agencies that do not have authority under current law to be landholding or landmanaging agencies, and instead rely on GSA to provide their real property space and services. The purchasing agency shall transfer the purchase cost minus furniture, fixture, and equipment to GSA, and GSA shall use such amount to pay for

construction. The facility, once complete, will be under the custody and control of GSA. Consistent with GSA current practice, this section provides the purchasing agency with rent credit toward the shell rent cost over up to a twenty five year period, reflecting the purchasing agency investment in the facility. The purchasing agency will continue to be responsible for making annual repayments in accordance with section 6.

SEC 10. SEQUESTRATION. This section adds the Fund to the list of programs that are exempt from sequestration. To the extent that a sequestration is required, it would apply to discretionary appropriations received by purchasing agencies.