105TH CONGRESS
1st Session
HOUSE OF REPRESENTATIVES
REPORT
105–347

COMMERCIAL SPACE ACT OF 1997

OCTOBER 24, 1997.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. SENSENBRENNER, from the Committee on Science, submitted the following

R E P O R T

[To accompany H.R. 1702]

[Including cost estimate of the Congressional Budget Office]

The Committee on Science, to whom was referred the bill (H.R. 1702) To encourage the development of a commercial space industry in the United States, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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41–492

I. AMENDMENT

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Commercial Space Act of 1997".

(b) TABLE OF CONTENTS.—

SEC. 2. DEFINITIONS.

For purposes of this Act—

(1) the term "Administrator" means the Administrator of the National Aeronautics and Space Administration;

(2) the term "commercial provider" means any person providing space transportation services or other space-related activities, primary control of which is held by persons other than Federal, State, local, and foreign governments;

(3) the term "payload" means anything that a person undertakes to transport to, from, or within outer space, or in suborbital trajectory, by means of a space transportation vehicle, but does not include the space transportation vehicle itself except for its components which are specifically designed or adapted for that payload;

(4) the term "space-related activities" includes research and development, manufacturing, processing, service, and other associated and support activities;

(5) the term "space transportation services" means the preparation of a space transportation vehicle and its payloads for transportation to, from, or within outer space, or in suborbital trajectory, and the conduct of transporting a payload to, from, or within outer space, or in suborbital trajectory;

(6) the term "space transportation vehicle" means any vehicle constructed for the purpose of operating in, or transporting a payload to, from, or within, outer space, or in suborbital trajectory, and includes any component of such vehicle not specifically designed or adapted for a payload;

(7) the term "State" means each of the several States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other commonwealth, territory, or possession of the United States; and

(8) the term "United States commercial provider" means a commercial provider, organized under the laws of the United States or of a State, which is—

(A) more than 50 percent owned by United States nationals; or

(B) a subsidiary of a foreign company and the Secretary of Transportation finds that—

(i) such subsidiary has in the past evidenced a substantial commitment to the United States market through—

(I) investments in the United States in long-term research, development, and manufacturing (including the manufacture of major components and subassemblies); and

(II) significant contributions to employment in the United States; and

(ii) the country or countries in which such foreign company is incorporated or organized, and, if appropriate, in which it principally conducts its business, affords reciprocal treatment to companies described in subparagraph (A) comparable to that afforded to such foreign company's subsidiary in the United States, as evidenced by—

(I) providing comparable opportunities for companies described in subparagraph (A) to participate in Government sponsored research and development similar to that authorized under this Act;

(II) providing no barriers, to companies described in subparagraph (A) with respect to local investment opportunities, that are not provided to foreign companies in the United States; and

(III) providing adequate and effective protection for the intellectual property rights of companies described in subparagraph (A).

TITLE I—PROMOTION OF COMMERCIAL SPACE OPPORTUNITIES

SEC. 101. COMMERCIALIZATION OF SPACE STATION.

(a) POLICY.—The Congress declares that a priority goal of constructing the International Space Station is the economic development of Earth orbital space. The Congress further declares that free and competitive markets create the most efficient conditions for promoting economic development, and should therefore govern the economic development of Earth orbital space. The Congress further declares that the use of free market principles in operating, servicing, allocating the use of, and adding capabilities to the Space Station, and the resulting fullest possible engagement of commercial providers and participation of commercial users, will reduce Space Station operational costs for all partners and the Federal Government's share of the United States burden to fund operations.

(b) REPORTS.—(1) The Administrator shall deliver to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, within 90 days after the date of the enactment of this Act, a study that identifies and examines—

(A) the opportunities for commercial providers to play a role in International Space Station activities, including operation, use, servicing, and augmentation;

(B) the potential cost savings to be derived from commercial providers playing a role in each of these activities;

(C) which of the opportunities described in subparagraph (A) the Administrator plans to make available to commercial providers in fiscal year 1998 and 1999;

(D) the specific policies and initiatives the Administrator is advancing to encourage and facilitate these commercial opportunities; and

(E) the revenues and cost reimbursements to the Federal Government from commercial users of the Space Station.

(2) The Administrator shall deliver to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, within 180 days after the date of the enactment of this Act, an independently-conducted market study that examines and evaluates potential industry interest in providing commercial goods and services for the operation, servicing, and augmentation of the International Space Station, and in the commercial use of the International Space Station. This study shall also include updates to the cost savings and revenue estimates made in the study described in paragraph (1) based on the external market assessment.

(3) The Administrator shall deliver to the Congress, no later than the submission of the President's annual budget request for fiscal year 1999, a report detailing how many proposals (whether solicited or not) the National Aeronautics and Space Administration received during calendar year 1997 regarding commercial operation, servicing, utilization, or augmentation of the International Space Station, broken down by each of these four categories, and specifying how many agreements the National Aeronautics and Space Administration has entered into in response to these proposals, also broken down by these four categories.

(4) Each of the studies and reports required by paragraphs (1), (2), and (3) shall include consideration of the potential role of State governments as brokers in promoting commercial participation in the International Space Station program.

SEC. 102. COMMERCIAL SPACE LAUNCH AMENDMENTS.

(a) AMENDMENTS.—Chapter 701 of title 49, United States Code, is amended—

(1) in the table of sections—

(A) by amending the item relating to section 70104 to read as follows:

"70104. Restrictions on launches, operations, and reentries.";

(B) by amending the item relating to section 70108 to read as follows:

"70108. Prohibition, suspension, and end of launches, operation of launch sites and reentry sites, and reentries.";

(C) by amending the item relating to section 70109 to read as follows:

"70109. Preemption of scheduled launches or reentries.";

and

(D) by adding at the end the following new items:

"70120. Regulations.
"70121. Report to Congress.".

(2) in section 70101—

(A) by inserting "microgravity research," after "information services," in subsection (a)(3);

(B) by inserting ", reentry," after "launching" both places it appears in subsection (a)(4);

(C) by inserting ", reentry vehicles," after "launch vehicles" in subsection (a)(5);

(D) by inserting "and reentry services" after "launch services" in subsection (a)(6);

(E) by inserting ", reentries," after "launches" both places it appears in subsection (a)(7);

(F) by inserting ", reentry sites," after "launch sites" in subsection (a)(8);

(G) by inserting "and reentry services" after "launch services" in subsection (a)(8);

(H) by inserting "reentry sites," after "launch sites," in subsection (a)(9);

(I) by inserting "and reentry site" after "launch site" in subsection (a)(9);

(J) by inserting ", reentry vehicles," after "launch vehicles" in subsection (b)(2);

(K) by striking "launch" in subsection (b)(2)(A);

(L) by inserting "and reentry" after "conduct of commercial launch" in subsection (b)(3);

(M) by striking "launch" after "and transfer commercial" in subsection (b)(3); and

(N) by inserting "and development of reentry sites," after "launch-site support facilities," in subsection (b)(4);

(3) in section 70102—

(A) in paragraph (3)—

(i) by striking "and any payload" and inserting in lieu thereof "or reentry vehicle and any payload from Earth";

(ii) by striking the period at the end of subparagraph (C) and inserting in lieu thereof a comma; and

(iii) by adding after subparagraph (C) the following:

"including activities involved in the preparation of a launch vehicle or payload for launch, when those activities take place at a launch site in the United States.";

(B) in paragraph (5)—

(i) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively; and

(ii) by inserting before subparagraph (B), as so redesignated by clause (i) of this subparagraph, the following new subparagraph:

"(A) activities directly related to the preparation of a launch site or payload facility for one or more launches;";

(C) by inserting "or reentry vehicle" after "means of a launch vehicle" in paragraph (8);

(D) by redesignating paragraphs (10), (11), and (12) as paragraphs (14), (15), and (16), respectively;

(E) by inserting after paragraph (9) the following new paragraphs:

"(10) 'reenter' and 'reentry' mean to return or attempt to return, purposefully, a reentry vehicle and its payload, if any, from Earth orbit or from outer space to Earth.

"(11) 'reentry services' means—

"(A) activities involved in the preparation of a reentry vehicle and its payload, if any, for reentry; and

"(B) the conduct of a reentry.

"(12) 'reentry site' means the location on Earth to which a reentry vehicle is intended to return (as defined in a license the Secretary issues or transfers under this chapter).

"(13) 'reentry vehicle' means a vehicle designed to return from Earth orbit or outer space to Earth, or a reusable launch vehicle designed to return from outer space to Earth, substantially intact."; and

(F) by inserting "or reentry services" after "launch services" each place it appears in paragraph (15), as so redesignated by subparagraph (D) of this paragraph;

(4) in section 70103(b)—

(A) by inserting "AND REENTRIES" after "LAUNCHES" in the subsection heading;

(B) by inserting "and reentries" after "commercial space launches" in paragraph (1); and

(C) by inserting "and reentry" after "space launch" in paragraph (2);

(5) in section 70104—

(A) by amending the section designation and heading to read as follows:

"§ 70104. Restrictions on launches, operations, and reentries";

(B) by inserting "or reentry site, or to reenter a reentry vehicle," after "operate a launch site" each place it appears in subsection (a);

(C) by inserting "or reentry" after "launch or operation" in subsection (a)(3) and (4);

(D) in subsection (b)—

(i) by striking "launch license" and inserting in lieu thereof "license";

(ii) by inserting "or reenter" after "may launch"; and

(iii) by inserting "or reentering" after "related to launching"; and

(E) in subsection (c)—

(i) by amending the subsection heading to read as follows: "PREVENTING LAUNCHES AND REENTRIES.—";

(ii) by inserting "or reentry" after "prevent the launch"; and

(iii) by inserting "or reentry" after "decides the launch";

(6) in section 70105—

(A) by inserting "(1)" before "A person may apply" in subsection (a);

(B) by striking "receiving an application" both places it appears in subsection (a) and inserting in lieu thereof "accepting an application in accordance with criteria established pursuant to subsection (b)(2)(D)";

(C) by adding at the end of subsection (a) the following: "The Secretary shall transmit to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a written notice not later than 30 days after any occurrence when a license is not issued within the deadline established by this subsection.

"(2) In carrying out paragraph (1), the Secretary may establish procedures for safety approvals of launch vehicles, reentry vehicles, safety systems, processes, services, or personnel that may be used in conducting licensed commercial space launch or reentry activities.";

(D) by inserting "or a reentry site, or the reentry of a reentry vehicle," after "operation of a launch site" in subsection (b)(1);

(E) by striking "or operation" and inserting in lieu thereof ", operation, or reentry" in subsection (b)(2)(A);

(F) by striking "and" at the end of subsection (b)(2)(B);

(G) by striking the period at the end of subsection (b)(2)(C) and inserting in lieu thereof "; and";

(H) by adding at the end of subsection (b)(2) the following new subparagraph:

"(D) regulations establishing criteria for accepting or rejecting an application for a license under this chapter within 60 days after receipt of such application."; and

(I) by inserting ", including the requirement to obtain a license," after "waive a requirement" in subsection (b)(3);

(7) in section 70106(a)—

(A) by inserting "or reentry site" after "observer at a launch site";

(B) by inserting "or reentry vehicle" after "assemble a launch vehicle"; and

(C) by inserting "or reentry vehicle" after "with a launch vehicle";

(8) in section 70108—

(A) by amending the section designation and heading to read as follows:

"§ 70108. Prohibition, suspension, and end of launches, operation of launch sites and reentry sites, and reentries";

and

(B) in subsection (a)—

(i) by inserting "or reentry site, or reentry of a reentry vehicle," after "operation of a launch site"; and

(ii) by inserting "or reentry" after "launch or operation";

(9) in section 70109—

(A) by amending the section designation and heading to read as follows:

"§ 70109. Preemption of scheduled launches or reentries";

(B) in subsection (a)—

(i) by inserting "or reentry" after "ensure that a launch";

(ii) by inserting ", reentry site," after "United States Government launch site";

(iii) by inserting "or reentry date commitment" after "launch date commitment";

(iv) by inserting "or reentry" after "obtained for a launch";

(v) by inserting ", reentry site," after "access to a launch site";

(vi) by inserting ", or services related to a reentry," after "amount for launch services"; and

(vii) by inserting "or reentry" after "the scheduled launch"; and

(C) in subsection (c), by inserting "or reentry" after "prompt launching";

(10) in section 70110—

(A) by inserting "or reentry" after "prevent the launch" in subsection (a)(2); and

(B) by inserting "or reentry site, or reentry of a reentry vehicle," after "operation of a launch site" in subsection (a)(3)(B);

(11) in section 70111—

(A) by inserting "or reentry" after "launch" in subsection (a)(1)(A);

(B) by inserting "and reentry services" after "launch services" in subsection (a)(1)(B);

(C) by inserting "or reentry services" after "or launch services" in subsection (a)(2);

(D) by inserting "or reentry" after "commercial launch" both places it appears in subsection (b)(1);

(E) by inserting "or reentry services" after "launch services" in subsection (b)(2)(C);

(F) by inserting after subsection (b)(2) the following new paragraph:

"(3) The Secretary shall ensure the establishment of uniform guidelines for, and consistent implementation of, this section by all Federal agencies.";

(G) by striking "or its payload for launch" in subsection (d) and inserting in lieu thereof "or reentry vehicle, or the payload of either, for launch or reentry"; and

(H) by inserting ", reentry vehicle," after "manufacturer of the launch vehicle" in subsection (d);

(12) in section 70112—

(A) in subsection (a)(1), by inserting "launch or reentry" after "(1) When a";

(B) by inserting "or reentry" after "one launch" in subsection (a)(3);

(C) by inserting "or reentry services" after "launch services" in subsection (a)(4);

(D) in subsection (b)(1), by inserting "launch or reentry" after "(1) A";

(E) by inserting "or reentry services" after "launch services" each place it appears in subsection (b);

(F) by inserting "applicable" after "carried out under the" in paragraphs (1) and (2) of subsection (b);

(G) by striking ", Space, and Technology" in subsection (d)(1);

(H) by inserting "OR REENTRIES" after "LAUNCHES" in the heading for subsection (e);

(I) by inserting "or reentry site or a reentry" after "launch site" in subsection (e); and

(J) in subsection (f), by inserting "launch or reentry" after "carried out under a";

(13) in section 70113(a)(1) and (d)(1) and (2), by inserting "or reentry" after "one launch" each place it appears;

(14) in section 70115(b)(1)(D)(i)—

(A) by inserting "reentry site," after "launch site,"; and

(B) by inserting "or reentry vehicle" after "launch vehicle" both places it appears;

(15) in section 70117—

(A) by inserting "or reentry site, or to reenter a reentry vehicle" after "operate a launch site" in subsection (a);

(B) by inserting "or reentry" after "approval of a space launch" in subsection (d);

(C) by amending subsection (f) to read as follows:

"(f) LAUNCH NOT AN EXPORT; REENTRY NOT AN IMPORT.—A launch vehicle, reentry vehicle, or payload that is launched or reentered is not, because of the launch or reentry, an export or import, respectively, for purposes of a law controlling exports or imports."; and

(D) in subsection (g)—

(i) by striking "operation of a launch vehicle or launch site," in paragraph (1) and inserting in lieu thereof "reentry, operation of a launch vehicle or reentry vehicle, operation of a launch site or reentry site,"; and

(ii) by inserting "reentry," after "launch," in paragraph (2); and

(16) by adding at the end the following new sections:

"§ 70120. Regulations

"(a) IN GENERAL.—The Secretary of Transportation, within 9 months after the date of the enactment of this section, shall issue regulations to carry out this chapter that include—

"(1) guidelines for industry and State governments to obtain sufficient insurance coverage for potential damages to third parties;

"(2) procedures for requesting and obtaining licenses to launch a commercial launch vehicle;

"(3) procedures for requesting and obtaining operator licenses for launch;

"(4) procedures for requesting and obtaining launch site operator licenses; and

"(5) procedures for the application of government indemnification.

"(b) REENTRY.—The Secretary of Transportation, within 6 months after the date of the enactment of this section, shall issue a notice of proposed rulemaking to carry out this chapter that includes—

"(1) procedures for requesting and obtaining licenses to reenter a reentry vehicle;

"(2) procedures for requesting and obtaining operator licenses for reentry; and

"(3) procedures for requesting and obtaining reentry site operator licenses.

"§ 70121. Report to Congress

"The Secretary of Transportation shall submit to Congress an annual report to accompany the President's budget request that—

"(1) describes all activities undertaken under this chapter, including a description of the process for the application for and approval of licenses under this chapter and recommendations for legislation that may further commercial launches and reentries; and

"(2) reviews the performance of the regulatory activities and the effectiveness of the Office of Commercial Space Transportation.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a)(6)(B) shall take effect upon the effective date of final regulations issued pursuant to section 70105(b)(2)(D) of title 49, United States Code, as added by subsection (a)(6)(H).

SEC. 103. LAUNCH VOUCHER DEMONSTRATION PROGRAM.

Section 504 of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1993 (15 U.S.C. 5803) is amended—

(1) in subsection (a)—

(A) by striking "the Office of Commercial Programs within"; and

(B) by striking "Such program shall not be effective after September 30, 1995.";

(2) by striking subsection (c); and

(3) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

SEC. 104. PROMOTION OF UNITED STATES GLOBAL POSITIONING SYSTEM STANDARDS.

(a) FINDING.—The Congress finds that the Global Positioning System, including satellites, signal equipment, ground stations, data links, and associated command and control facilities, has become an essential element in civil, scientific, and military space development because of the emergence of a United States commercial industry which provides Global Positioning System equipment and related services.

(b) INTERNATIONAL COOPERATION.—In order to support and sustain the Global Positioning System in a manner that will most effectively contribute to the national security, public safety, scientific, and economic interests of the United States, the Congress encourages the President to—

(1) ensure the operation of the Global Positioning System on a continuous worldwide basis free of direct user fees; and

(2) enter into international agreements that promote cooperation with foreign governments and international organizations to—

(A) establish the Global Positioning System and its augmentations as an acceptable international standard; and

(B) eliminate any foreign barriers to applications of the Global Positioning System worldwide.

SEC. 105. ACQUISITION OF SPACE SCIENCE DATA.

(a) ACQUISITION FROM COMMERCIAL PROVIDERS.—The Administrator shall, to the maximum extent possible and while satisfying the scientific requirements of the National Aeronautics and Space Administration, acquire, where cost effective, space science data from a commercial provider.

(b) TREATMENT OF SPACE SCIENCE DATA AS COMMERCIAL ITEM UNDER ACQUISITION LAWS.—Acquisitions of space science data by the Administrator shall be carried out in accordance with applicable acquisition laws and regulations (including chapters 137 and 140 of title 10, United States Code), except that space science data shall be considered to be a commercial item for purposes of such laws and regulations (including section 2306a of title 10, United States Code (relating to cost or pricing data), section 2320 of such title (relating to rights in technical data) and section 2321 of such title (relating to validation of proprietary data restrictions)).

(c) DEFINITION.—For purposes of this section, the term "space science data" includes scientific data concerning the elemental and mineralogical resources of the moon, asteroids, planets and their moons, and comets, and solar storm monitoring.

(d) SAFETY STANDARDS.—Nothing in this section shall be construed to prohibit the Federal Government from requiring compliance with applicable safety standards.

(e) LIMITATION.—This section does not authorize the National Aeronautics and Space Administration to provide financial assistance for the development of commercial systems for the collection of space science data.

SEC. 106. ADMINISTRATION OF COMMERCIAL SPACE CENTERS.

The Administrator shall administer the Commercial Space Center program in a coordinated manner from National Aeronautics and Space Administration headquarters.

TITLE II—REMOTE SENSING

SEC. 201. LAND REMOTE SENSING POLICY ACT OF 1992 AMENDMENTS.

(a) FINDINGS.—The Congress finds that—

(1) a robust domestic United States industry in high resolution Earth remote sensing is in the economic, employment, technological, scientific, and national security interests of the United States;

(2) to secure its national interests the United States must nurture a commercial remote sensing industry that leads the world;

(3) the Federal Government must provide policy and regulations that promote a stable business environment for that industry to succeed and fulfill the national interest;

(4) it is the responsibility of the Federal Government to create domestic and international conditions favorable to the health and growth of the United States commercial remote sensing industry; and

(5) it is a fundamental goal of United States policy to support and enhance United States industrial competitiveness in the field of remote sensing, while

at the same time protecting the national security concerns and international obligations of the United States.

(b) AMENDMENTS.—The Land Remote Sensing Policy Act of 1992 is amended—

(1) in section 2 (15 U.S.C. 5601)—

(A) by amending paragraph (5) to read as follows:

"(5) Commercialization of land remote sensing is a near-term goal, and should remain a long-term goal, of United States policy.";

(B) by striking paragraph (6) and redesignating paragraphs (7) through (16) as paragraphs (6) through (15), respectively; and

(C) in paragraph (11), as so redesignated by subparagraph (B) of this paragraph, by striking "determining the design" and all that follows through "international consortium" and inserting in lieu thereof "ensuring the continuity of Landsat quality data";

(2) in section 101 (15 U.S.C. 5611)—

(A) in subsection (c)—

(i) by inserting "and" at the end of paragraph (6);

(ii) by striking paragraph (7); and

(iii) by redesignating paragraph (8) as paragraph (7); and

(B) in subsection (e)(1)—

(i) by inserting "and" at the end of subparagraph (A);

(ii) by striking ", and" at the end of subparagraph (B) and inserting in lieu thereof a period; and

(iii) by striking subparagraph (C);

(3) in section 201 (15 U.S.C. 5621)—

(A) by inserting "(1)" after "NATIONAL SECURITY.—" in subsection (b);

(B) in subsection (b)(1), as so redesignated by subparagraph (A) of this paragraph, by striking "No license shall be granted by the Secretary unless the Secretary determines in writing that the applicant will comply" and inserting in lieu thereof "The Secretary shall grant a license if the Secretary determines that the activities proposed in the application are consistent";

(C) by adding at the end of subsection (b) the following new paragraph:

"(2) The Secretary, within 6 months after the date of the enactment of the Commercial Space Act of 1997, shall publish in the Federal Register a complete and specific list of all information required to comprise a complete application for a license under this title. An application shall be considered complete when the applicant has provided all information required by the list most recently published in the Federal Register before the date the application was first submitted. Unless the Secretary has, within 30 days after receipt of an application, notified the applicant of information necessary to complete an application, the Secretary may not deny the application on the basis of the absence of any such information.";

(D) in subsection (c), by amending the second sentence thereof to read as follows: "If the Secretary has not granted the license within such 120-day period, the Secretary shall inform the applicant, within such period, of any pending issues and actions required to be carried out by the applicant or the Secretary in order to result in the granting of a license."; and

(E) in subsection (e)(2)(B), by striking "and the importance of promoting widespread access to remote sensing data from United States and foreign systems";

(4) in section 202 (15 U.S.C. 5622)—

(A) by striking "section 506" in subsection (b)(1) and inserting in lieu thereof "section 507";

(B) in subsection (b)(2), by striking "as soon as such data are available and on reasonable terms and conditions" and inserting in lieu thereof "on reasonable terms and conditions, including the provision of such data in a timely manner";

(C) in subsection (b)(6), by striking "any agreement" and inserting in lieu thereof "any significant or substantial agreement relating to land remote sensing"; and

(D) by inserting after paragraph (6) of subsection (b) the following:

"The Secretary may not seek to enjoin a company from entering into a foreign agreement the Secretary receives notification of under paragraph (6) unless the Secretary has, within 30 days after receipt of such notification, transmitted to the licensee a statement that such agreement is inconsistent with the national security or international obligations of the United States, including an explanation of such inconsistency.";

(5) in section 203(a)(2) (15 U.S.C. 5623(a)(2)), by striking "under this title and" and inserting in lieu thereof "under this title and/or";

(6) in section 204 (15 U.S.C. 5624), by striking "may" and inserting in lieu thereof "shall";

(7) in section 205(c) (15 U.S.C. 5625(c)), by striking "if such remote sensing space system is licensed by the Secretary before commencing operation" and inserting in lieu thereof "if such private remote sensing space system will be licensed by the Secretary before commencing its commercial operation";

(8) by adding at the end of title II the following new section:

"SEC. 206. NOTIFICATION.

"(a) LIMITATIONS ON LICENSEE.—Not later than 30 days after a determination by the Secretary to require a licensee to limit collection or distribution of data from a system licensed under this title, the Secretary shall provide written notification to Congress of such determination, including the reasons therefor, the limitations imposed on the licensee, and the period during which such limitations apply.

"(b) TERMINATION, MODIFICATION, OR SUSPENSION.—Not later than 30 days after an action by the Secretary to seek an order of injunction or other judicial determination pursuant to section 202(b) or section 203(a)(2), the Secretary shall provide written notification to Congress of such action and the reasons therefor.";

(9) in section 301 (15 U.S.C. 5631)—

(A) by inserting ", that are not being commercially developed" after "and its environment" in subsection (a)(2)(B); and

(B) by adding at the end the following new subsection:

"(d) DUPLICATION OF COMMERCIAL SECTOR ACTIVITIES.—The Federal Government shall not undertake activities under this section which duplicate activities available from the United States commercial sector, unless such activities would result in significant cost savings to the Federal Government, or are necessary for reasons of national security or international obligations.";

(10) in section 302 (15 U.S.C. 5632)—

(A) by striking "(a) GENERAL RULE.—";

(B) by striking ", including unenhanced data gathered under the technology demonstration program carried out pursuant to section 303," and inserting in lieu thereof "that is not otherwise available from the commercial sector"; and

(C) by striking subsection (b);

(11) by repealing section 303 (15 U.S.C. 5633);

(12) in section 401(b)(3) (15 U.S.C. 5641(b)(3)), by striking ", including any such enhancements developed under the technology demonstration program under section 303,";

(13) in section 501(a) (15 U.S.C. 5651(a)), by striking "section 506" and inserting in lieu thereof "section 507";

(14) in section 502(c)(7) (15 U.S.C. 5652(c)(7)), by striking "section 506" and inserting in lieu thereof "section 507"; and

(15) in section 507 (15 U.S.C. 5657)—

(A) by amending subsection (a) to read as follows:

"(a) RESPONSIBILITY OF THE SECRETARY OF DEFENSE.—The Secretary shall consult with the Secretary of Defense on all matters under title II affecting national security. The Secretary of Defense shall be responsible for determining those conditions, consistent with this Act, necessary to meet national security concerns of the United States, and for notifying the Secretary promptly of such conditions. Not later than 180 days after the date of the enactment of the Commercial Space Act of 1997, the Secretary of Defense shall publish in Commerce Business Daily, for the purpose of soliciting comments, notice of all national security concerns that pertain to the licensing of private remote sensing space systems. Not later than 60 days after receiving a request from the Secretary, the Secretary of Defense shall notify the Secretary and the licensee of, and describe in detail, any specific national security concerns of the United States that the Secretary of Defense determines are an appropriate reason for delaying, modifying, or rejecting a license application. The Secretary of Defense shall concurrently recommend to the Secretary any conditions for a license issued under title II, consistent with this Act, that the Secretary of Defense considers necessary to secure the national security concerns of the United States. If no such notification has been received by the Secretary within such 60-day period, the Secretary shall deem activities proposed in the license application to be consistent with the protection of the national security of the United States.";

(B) by striking subsection (b)(1) and (2) and inserting in lieu thereof the following:

"(b) RESPONSIBILITY OF THE SECRETARY OF STATE.—(1) The Secretary shall consult with the Secretary of State on all matters under title II affecting international obligations of the United States. The Secretary of State shall be responsible for de-

termining those conditions, consistent with this Act, necessary to meet international obligations of the United States and for notifying the Secretary promptly of such conditions. Not later than 180 days after the date of the enactment of the Commercial Space Act of 1997, the Secretary of State shall publish in Commerce Business Daily, for the purpose of soliciting comments, notice of all international obligations of the United States that pertain to the licensing of private remote sensing space systems. Not later than 60 days after receiving a request from the Secretary, the Secretary of State shall notify the Secretary and the licensee of, and describe in detail, any specific international obligations of the United States that the Secretary of State determines are an appropriate reason for delaying, modifying, or rejecting a license application. The Secretary of State shall concurrently recommend to the Secretary any conditions for a license issued under title II, consistent with this Act, that the Secretary of State considers necessary to secure the international obligations of the United States. If no such notification has been received by the Secretary within such 60-day period, the Secretary shall deem activities proposed in the license application to be consistent with the international obligations of the United States.

"(2) Appropriate United States Government agencies are authorized and encouraged to provide to developing nations, as a component of international aid, resources for purchasing remote sensing data, training, and analysis from commercial providers."; and

(C) in subsection (d), by striking "Secretary may require" and inserting in lieu thereof "Secretary shall, where appropriate, require".

SEC. 202. ACQUISITION OF EARTH SCIENCE DATA.

(a) ACQUISITION.—For purposes of meeting Government goals for Mission to Planet Earth, the Administrator shall, to the maximum extent possible and while satisfying the scientific requirements of the National Aeronautics and Space Administration, acquire, where cost-effective, space-based and airborne Earth remote sensing data, services, distribution, and applications from a commercial provider.

(b) TREATMENT AS COMMERCIAL ITEM UNDER ACQUISITION LAWS.—Acquisitions by the Administrator of the data, services, distribution, and applications referred to in subsection (a) shall be carried out in accordance with applicable acquisition laws and regulations (including chapters 137 and 140 of title 10, United States Code), except that such data, services, distribution, and applications shall be considered to be a commercial item for purposes of such laws and regulations (including section 2306a of title 10, United States Code (relating to cost or pricing data), section 2320 of such title (relating to rights in technical data) and section 2321 of such title (relating to validation of proprietary data restrictions)).

(c) STUDY.—(1) The Administrator shall conduct a study to determine the extent to which the baseline scientific requirements of Mission to Planet Earth can be met by commercial providers, and how the National Aeronautics and Space Administration will meet such requirements which cannot be met by commercial providers.

(2) The study conducted under this subsection shall—

(A) make recommendations to promote the availability of information from the National Aeronautics and Space Administration to commercial providers to enable commercial providers to better meet the baseline scientific requirements of Mission to Planet Earth;

(B) make recommendations to promote the dissemination to commercial providers of information on advanced technology research and development performed by or for the National Aeronautics and Space Administration; and

(C) identify policy, regulatory, and legislative barriers to the implementation of the recommendations made under this subsection.

(3) The results of the study conducted under this subsection shall be transmitted to the Congress within 6 months after the date of the enactment of this Act.

(d) SAFETY STANDARDS.—Nothing in this section shall be construed to prohibit the Federal Government from requiring compliance with applicable safety standards.

(e) ADMINISTRATION AND EXECUTION.—This section shall be carried out as part of the Commercial Remote Sensing Program at the Stennis Space Center.

TITLE III—FEDERAL ACQUISITION OF SPACE TRANSPORTATION SERVICES

SEC. 301. REQUIREMENT TO PROCURE COMMERCIAL SPACE TRANSPORTATION SERVICES.

(a) IN GENERAL.—Except as otherwise provided in this section, the Federal Government shall acquire space transportation services from United States commercial providers whenever such services are required in the course of its activities. To the maximum extent practicable, the Federal Government shall plan missions to accommodate the space transportation services capabilities of United States commercial providers.

(b) EXCEPTIONS.—The Federal Government shall not be required to acquire space transportation services under subsection (a) if, on a case-by-case basis, the Administrator or, in the case of a national security issue, the Secretary of the Air Force, determines that—

(1) a payload requires the unique capabilities of the space shuttle;

(2) cost effective space transportation services that meet specific mission requirements would not be reasonably available from United States commercial providers when required;

(3) the use of space transportation services from United States commercial providers poses an unacceptable risk of loss of a unique scientific opportunity;

(4) the use of space transportation services from United States commercial providers is inconsistent with national security objectives;

(5) it is more cost effective to transport a payload in conjunction with a test or demonstration of a space transportation vehicle owned by the Federal Government; or

(6) a payload can make use of the available cargo space on a Space Shuttle mission as a secondary payload, and such payload is consistent with the requirements of research, development, demonstration, scientific, commercial, and educational programs authorized by the Administrator.

(c) DELAYED EFFECT.—Subsection (a) shall not apply to space transportation services and space transportation vehicles acquired or owned by the Federal Government before the date of the enactment of this Act, or with respect to which a contract for such acquisition or ownership has been entered into before such date.

(d) HISTORICAL PURPOSES.—This section shall not be construed to prohibit the Federal Government from acquiring, owning, or maintaining space transportation vehicles solely for historical display purposes.

SEC. 302. ACQUISITION OF SPACE TRANSPORTATION SERVICES.

(a) TREATMENT OF SPACE TRANSPORTATION SERVICES AS COMMERCIAL ITEM UNDER ACQUISITION LAWS.—Acquisitions of space transportation services by the Federal Government shall be carried out in accordance with applicable acquisition laws and regulations (including chapters 137 and 140 of title 10, United States Code), except that space transportation services shall be considered to be a commercial item for purposes of such laws and regulations (including section 2306a of title 10, United States Code (relating to cost or pricing data), section 2320 of such title (relating to rights in technical data) and section 2321 of such title (relating to validation of proprietary data restrictions)).

(b) SAFETY STANDARDS.—Nothing in this section shall be construed to prohibit the Federal Government from requiring compliance with applicable safety standards.

SEC. 303. LAUNCH SERVICES PURCHASE ACT OF 1990 AMENDMENTS.

The Launch Services Purchase Act of 1990 (42 U.S.C. 2465b et seq.) is amended—

(1) by striking section 202;

(2) in section 203—

(A) by striking paragraphs (1) and (2); and

(B) by redesignating paragraphs (3) and (4) as paragraphs (1) and (2), respectively;

(3) by striking sections 204 and 205; and

(4) in section 206—

(A) by striking "(a) COMMERCIAL PAYLOADS ON THE SPACE SHUTTLE.—"; and

(B) by striking subsection (b).

II. PURPOSE OF THE BILL

The purpose of the bill is to encourage the development of a commercial space industry in the United States by streamlining government regulatory procedures and unleashing the creativity and energies of American entrepreneurship.

II. BACKGROUND AND NEED FOR THE LEGISLATION

The Department of Commerce estimated that revenue from commercial space activity in the United States totaled some $7.5 billion in 1995. For more than a decade, commercial space businesses have grown faster than the economy and proven relatively recession-proof. This success comes despite the fact that commercial space ventures are particularly capital-intensive and often involve more risk than more traditional terrestrial businesses.

Congress and the White House have supported and encouraged growth and development of this industry on a bipartisan basis, regardless of which political party controlled either branch of government. For example, a Democratic Congress and a Republican President worked together in 1992 to pass the Land Remote Sensing Policy Act of 1992 (P.L. 102–555), a law which enabled the private sector to design, build, launch, and operate commercial remote sensing satellites.

During the course of its first term, the Clinton Administration has developed and published a range of policy statements that continue the work of his predecessors, Presidents Reagan and Bush, in establishing a stable business environment from which the commercial sector can create new space businesses and jobs. Those policies deal with space transportation, commercial remote sensing, and the Global Positioning System. Additionally, the President issued a new National Space Policy on September 19, 1996 which reinforced the government's support of commercial space development, noting that "expanding U.S. commercial space activities will generate economic benefits for the Nation and provide the U.S. Government with an increasing range of space goods and services." The policy further declared that support of commercial space activity would be undertaken without federal subsidies. Taking the position that the government's role is more appropriately limited to creating a stable and predictable environment in which the entrepreneurial spirit of American enterprise can succeed, the policy states, "Commercial space sector activities shall be supervised or regulated only to the extent required by law, national security, international obligations and public safety."

The Committee agrees with the President's position and supports his policy initiatives designed to advance U.S. commercial interests in space development. Since the passage of the 1992 legislation and the announcement of policies intended to create a stable business environment for developing space commercially, the government and the commercial sector have identified possible areas of improvement.

H.R. 1702, the Commercial Space Act of 1997, is a modest step in improving the legal and regulatory framework for commercial space development. Yet, as Neil Armstrong noted upon departing the Lunar Excursion Module to leave the first extra-terrestrial foot-

prints in the history of humanity, giant leaps often begin with small, and modest, steps.

H.R. 1702 will achieve several goals. One purpose of the bill is to codify the best aspects of existing space policy, so that the merits of the policies themselves are established in a more stable framework. Another purpose is to incorporate lessons learned from past efforts to create law and policy for the promotion of commercial space activity. Finally, many commercial space ventures relate directly to the production and dissemination of information. Thus, they form part of the technological base for the new information economy and require a more streamlined and proactive legal and regulatory environment if the United States is to lead the world into the information age.

The bill is necessary because commercial activity in space is still at a very early stage of development. Its progress is measured in the work of relatively small, entrepreneurial companies. Like any young industry, commercial space business is vulnerable to the inconsistencies and sudden changes of government policy. H.R. 1702 is necessary to ensure consistency in government policy so that commercial space businesses can grow with the relatively reliable assurance that government policy will not change suddenly and drive them out of business through neglect, inattentiveness, incompetence, or shortsightedness.

Currently, U.S. companies do not lead the world in several major areas of commercial space activity, even though they may have a competitive advantage in the quality of goods and services they offer. In many cases, the lack of a U.S. lead in commercial space is the result of U.S. government policies and the fact that many of our foreign competitors in commercial space activity are actually foreign governments. For example, when it comes to remote sensing systems selling their products commercially, the most advanced satellites in use today were either designed, built, launched, owned, or operated by the governments of France, India, and Canada. In the area of worldwide commercial space launch, U.S. companies only have about a 33% share of the market, in part because the U.S. government drove many U.S. companies out of the launch business with decisions made in the late 1970's and early 1980's to launch commercial payloads on the government-owned Space Shuttle. It took the Challenger disaster in 1986 to force a change in federal policy, but the U.S. launch industry still has not completely recovered from earlier government decisions.

IV. Summary of Hearings

The Subcommittee on Space and Aeronautics held three formal hearings during the first session of the 105th Congress regarding H.R. 1702, the Commercial Space Act of 1997.

On May 21, 1997, the Subcommittee on Space and Aeronautics held a hearing entitled, "The Commercial Space Act of 1997: Commercial Remote Sensing, Part I." The witnesses were: Mr. Keith Calhoun-Senghor, Director of the Office of Air & Space Commercialization at the Department of Commerce; Mr. Jeff Harris, President of Space Imaging Incorporated; Dr. Susan Moran, Physical Scientist for the Southwest Watershed Research Center at the U.S. Department of Agriculture; Dr. John Townshend, Professor at the

University of Maryland; and Dr. Molly Macauley, Senior Fellow at Resources for the Future.

Purpose of Hearing

The purpose of this hearing was to seek input on the commercial remote sensing provisions of H.R. 1702, the Commercial Space Act of 1997. The hearing focused on: (1) ongoing and anticipated commercial space activities and their benefits to the United States; (2) applications of commercial remote sensing imagery that help to improve life on Earth; (3) policy issues that surround the creation and future growth of the emerging remote sensing industry; and (4) identifying improvements that can be made in the legal and regulatory environment to support the continued growth of the U.S. commercial remote sensing industry.

Key Issues

Mr. Keith Calhoun-Senghor, Director of the Office of Air & Space Commercialization at the Department of Commerce, discussed a new era that he termed "new space." He maintained that new space differs dramatically from the previous era of traditional aerospace in three significant ways: (1) it is privately funded; (2) it is international; and (3) it will be Earth's new economic frontier. Mr. Calhoun-Senghor also noted that the U.S. government is beginning, and must continue, to treat new space as an industry segment where data is tracked and analyzed in much the same way as commodities futures or crop reports are, so that businesses can intelligently anticipate the future of the aerospace industry.

Mr. Jeff Harris, President of Space Imaging Incorporated, discussed opportunities that commercial remote sensing can offer the United States. He also explained the reasons for expanding interest in commercial remote sensing, including: (1) adequate technology is available; (2) commercial remote sensing has become more cost-effective; (3) international clientele opportunities; and (4) a U.S. aerospace industry that is poised and ready to further develop this emerging industry.

Dr. Susan Moran, Physical Scientist for the Southwest Watershed Research Center at the U.S. Department of Agriculture, testified regarding applications of remote sensing imagery that help to improve life on Earth and discussed the value of commercial remote sensing to precision farming.

Dr. John Townshend, Professor at the University of Maryland, said that to assist development of the commercial remote sensing industry, we (government and industry) should: (1) ensure that the scientific community plays a major role in planning the acquisition of remote sensing data; (2) provide reliable information on the availability of remote sensing data to the scientific user; (3) involve the scientific community in validation and quality assessment of products derived from remote sensing; and (4) assure that remote sensing products are delivered in a timely fashion.

Dr. Molly Macauley, Senior Fellow at Resources for the Future, noted that the profitability of the commercial remote sensing market is going to depend on continued technological improvements and cost reductions in spacecraft and instrumentation. She also suggested that government agencies could "auction" research space-

craft after their original missions were complete. This would help commercial providers by eliminating expensive research and development costs.

On May 22, 1997, the Subcommittee on Space and Aeronautics held a second hearing entitled, "The Commercial Space Act of 1997: Space Transportation." The witnesses were: Mr. Edward A. Frankle, General Counsel for NASA; Ms. Patti Grace Smith, Associate Administrator (Acting) for Commercial Space Transportation at the Federal Aviation Administration (FAA); Mr. Edward Brady, Managing Partner for Strategic Perspectives Incorporated; and Mr. Michael S. Kelly, President & CEO of Kelly Space & Technology Incorporated.

Purpose of Hearing

The purpose of this hearing was to obtain input on various issues surrounding commercial space transportation for H.R. 1702, the Commercial Space Act of 1997. The hearing focused on: (1) granting the Office of Commercial Space Transportation the authority to license reentries of commercial space transportation vehicles; (2) federal purchase of commercial space transportation services; (3) U.S. participation in the establishment of international standards for commercial space operations; and (4) licensing of in-space transportation.

Key Issues

Mr. Edward A. Frankle, General Counsel for NASA, noted that policy makers need to review several areas before making a decision to regulate in-space transportation. These areas include: international obligations of the United States; public health and safety; safety of property; and national security and foreign policy interests of the United States. However, Mr. Frankle stated that he did not believe that there is any logical basis for regulating in-space transportation at this time.

Ms. Patti Grace Smith, Associate Administrator (Acting) for Commercial Space Transportation at FAA, testified that it is essential that Congress pass authorizing legislation granting FAA the authority to license reentries. Further, she maintained that without such authority, the government would not be able to provide for public safety or ensure adequate oversight of commercial space transportation activities involving reentry or reusable vehicles.

Mr. Edward Brady, Managing Partner for Strategic Perspectives Incorporated, focused on the necessity to establish international standards for commercial space operations. He maintained that commercial space activities cannot be implemented in a cost-effective manner without standards that are nationally and internationally recognized and used.

Mr. Michael S. Kelly, President & CEO of Kelly Space & Technology Incorporated, said that he believed that authority to license reentry should be granted to the FAA and that the government should not continue the practice of financing, with taxpayer money, the development of commercial launch vehicles which then compete with privately-financed systems.

On Wednesday, June 4, 1997, the Subcommittee on Space and Aeronautics held the third and final hearing on "The Commercial

Space Act of 1997: Commercial Remote Sensing, Part II." The witnesses were: Dr. D. James Baker, Under Secretary for Oceans and Atmosphere at the U.S. Department of Commerce; Ms. Cheryl Roby, Principal Deputy to the Assistant Secretary for Command, Control, Communications, and Intelligence at the Department of Defense; and Mr. Mike Swiek, Executive Director for the Global Positioning System Industry Council.

While drafting H.R. 1702, the Commercial Space Act of 1997, the Committee on Science attempted to seek input from various agencies and businesses in an effort to make the bill as favorable, for both the Congress and the Administration, as possible. Therefore, the Department of State was invited to participate in this hearing, but unfortunately, a witness was not sent despite the Committee's attempts over several weeks to obtain a representative who could provide input from the Department. The Committee sought input from the Department of State because the Department makes recommendations, based on U.S. international obligations, to the Secretary of Commerce regarding licenses for commercial remote sensing. Subsequent to the hearing, the Space and Aeronautics Subcommittee Chairman and Ranking Member each received a position paper from the Department of State regarding H.R. 1702. While the Committee appreciates the input from the Department, such input is valuable legislatively only to the extent that members have the opportunity to ask questions and explore issues on the record. The Department's failure to appear before the Committee and offer its comments in a public forum limit the value or import that can be given to the Department's concerns, many of which appear to be inconsistent with existing law in the Land Remote Sensing Policy Act of 1992 (P.L. 102–555) and the President's publicly released statements of policy on remote sensing.

Purpose of Hearing

The purpose of this hearing was to seek input on the commercial remote sensing provisions of H.R. 1702, the Commercial Space Act of 1997. The hearing explored: (1) the current legal and regulatory regime for remote sensing in the Land Remote Sensing Policy Act of 1992 (P.L. 102–555) and White House policy; (2) lead agency responsibilities (including national security concerns and international obligations) for implementing the Land Remote Sensing Policy Act of 1992; (3) improvements that can be made to the Land Remote Sensing Policy Act of 1992; (4) interagency cooperation and coordination on prospective license applications; (5) Department of Defense use of imagery from existing or planned commercial remote sensing satellites; and (6) development and growth potential of the Global Positioning System (GPS) applications industry.

Key Issues

Dr. D. James Baker, Under Secretary for Oceans and Atmosphere at the U.S. Department of Commerce, testified that it is the goal of the Department of Commerce, and the Administration, to provide a policy and regulatory regime which nurtures and fosters the development of commercial remote sensing, so that the United States does not squander its lead and allow other countries to gain competitive advantage in this high-skill, high-wage industry. Dr.

Baker noted industry concerns about the vagueness of the standard for determining when imaging must be restricted. Therefore, he reported that the Department of Commerce is developing regulations which will achieve a better balance between the burdens on a licensed operator and national security requirements and international obligations of the United States regarding remote sensing practices.

Ms. Cheryl Roby, Principal Deputy to the Assistant Secretary for Command, Control, Communications, and Intelligence at the Department of Defense, testified that the recently completed Quadrennial Defense Review commits the Department to maximize the use of emerging commercial remote sensing capabilities. She maintained that for reasons of national security, the Defense Department is convinced that provisions allowing for shutter control in emergency situations should continue. However, Ms. Roby noted that the Defense Department did not anticipate that shutter control would occur often or over significant periods of time.

Mr. Mike Swiek, Executive Director for the Global Positioning System Industry Council, testified that the Global Positioning System (GPS) has become one of the greatest success stories of government and industry cooperation. He noted that proposed language in the Commercial Space Act of 1997 reiterates the need to establish a clear, high-level commitment to a stable policy environment for the development of international standards facilitating both private and public sector investments in GPS. In closing, Mr. Swiek argued that the most important near-term initiative that the government can take to promote long-term GPS growth is through passage of language that supports current efforts to secure international agreements with our allies to establish GPS and its augmentations as an accepted international standard.

V. Summary of Major Provisions of the Bill

The major provisions of the bill are the following:

Requires the NASA Administrator to submit a report and independent market study to Congress identifying commercial opportunities and evaluating industry interest in playing a role in International Space Station activities including operation, use, servicing, or augmentation;

Amends the Commercial Space Launch Act (49 U.S.C. 70101 et seq.) to establish a statutory framework for the Office of Commercial Space Transportation to license commercial reentry activities;

Reaffirms United States policy to make the U.S. Global Positioning System the world standard and to continue its operation on a continuous worldwide basis, free of direct user fees;

Encourages NASA to purchase space science data from commercial providers instead of building complete systems to generate the data;

Directs the NASA Administrator to manage the Commercial Space Centers as a coordinated program out of NASA headquarters;

Updates the Land Remote Sensing Policy Act of 1992 (P.L. 102–555;

Encourages NASA to buy Earth remote sensing data from commercial providers and requires a study of how scientific require-

ments of Mission to Planet Earth can be met by commercial providers;

Requires the Federal Government to procure space transportation services from U.S. commercial providers.

VI. Section-By-Section Analysis and Committee Views

Section 1 Short Title

This Act may be cited as the "Commercial Space Act of 1997."

Section 2 Definitions

Provides definitions for terms used in H.R. 1702. Definitions are provided for NASA Administrator; commercial provider; payload; space-related activities; space transportation services; space transportation vehicle; state; and U.S. commercial provider.

Title I—Promotion of Commercial Space Opportunities

Section 101 Commercialization of Space Station

Sectional Analysis

Requires a report from NASA, within 90 days after enactment, that identifies and examines the opportunities for commercial providers to play a role in International Space Station activities; the potential cost savings from using commercial providers; details the opportunities the NASA Administrator plans to make available to commercial providers; the policies that the NASA Administrator is advancing to encourage commercial opportunities; and the revenues and cost reimbursements to the Federal Government from commercial users of the International Space Station. Requires an independent market study, 180 days after enactment, that examines and evaluates potential industry interest in providing commercial goods and services for the operation, servicing, and augmentation of the International Space Station. Requires a report detailing how many proposals NASA received in 1997 regarding commercial operation, servicing, utilization, or augmentation of the International Space Station, and how many of these resulted in agreements. The section also directs that the role of state governments as brokers in promoting space station commercialization be considered in all three reports.

Committee Views

The Committee has consistently stated its interest, both in legislation adopted by the House of Representatives and in authorization and oversight hearings, in the greatest possible U.S. commercial participation in the operation, servicing, utilization, and augmentation of the International Space Station. This is motivated both by a desire to lower costs to U.S. taxpayers by bringing the efficiencies and the capital resources of competitive free enterprise to bear on the International Space Station, and by the Committee's belief that Earth orbital space is an economic frontier of tremendous potential and that the International Space Station should be operated in a matter which helps open up this frontier to American enterprise.

To this end, H.R. 1702 directs the Administrator of NASA to produce three reports for the Committee. The first is a short-term internal study of opportunities for commercialization of the U.S. portion of the International Space Station. The second is a 180-day external study of market interest in International Space Station commercialization. The third is a report for 1997 on how much interest private companies have shown by making proposals to NASA, and how many agreements NASA has entered into in response to those proposals.

Section 102 Commercial Space Launch Amendments

Sectional Analysis

This section amends Chapter 701 of title 49, United States Code, entitled "Commercial Space Launch Activities," which is a recodification of the Commercial Space Launch Act of 1984 (P.L. 98–575). The purpose of the amendments is to establish a statutory framework for the licensing of commercial reentry activities by the Secretary of Transportation, clarify certain provisions in Chapter 701, and provide for criteria for accepting a license application.

The Commercial Space Launch Act is further amended to expand the definition of "launch services" to those activities directly related to the preparation of a launch site or payload facility. Under Section 70105, the Secretary of Transportation is directed to notify the authorizing House and Senate Committees within 30 days after a license has not been issued within the deadline. The Secretary may establish procedures for safety approvals of launch vehicles, reentry vehicles, safety systems, processes, services, or personnel that may be used in conducting licensed commercial space launch or reentry activities. The Secretary is also given the authority to develop regulations establishing criteria for accepting an application for a license within the 60 days after receipt of such application.

Program Description

The Department of Transportation, through its Office of Commercial Space Transportation, is responsible for implementing Chapter 701 which authorizes the Secretary of Transportation to license and regulate the non-governmental space launch of a vehicle and operation of a launch site. In addition, by virtue of Executive Order 12465, the Department has lead agency responsibilities within the Executive Branch to encourage, facilitate, and coordinate development of commercial expendable launch vehicle operations by private U.S. enterprises.

Committee Views

When the Commercial Space Launch Act was passed in 1984 (P.L. 98–575) and when it was amended in 1988 (P.L. 100–657), Congress did not address the full range of space transportation activities that the private sector could undertake on a commercial basis. Specifically, commercial space activities involving reentry vehicles that are returned to Earth from Earth orbit or outer space were not encompassed, and were not intended to be encompassed, by the statute. Market demand to support commercial reentry ventures is emerging. The commercial sector is beginning to dem-

onstrate technical capability to undertake such activities if suitable profit-making opportunities are presented. In recognition of these developments, the Committee wishes to establish the appropriate legal framework to ensure public safety is protected while minimizing regulatory burden, delay or uncertainty that could inhibit commercial exploitation of reentry capabilities. In addition to establishing a regulatory regime for commercial reentries, the Committee intends these amendments to address certain issues that have arisen regarding the definition of "launch;" the extent to which activities before and after launch may be licensed or regulated; and applicability of the third party liability provisions of sections 70112 and 70113 of Chapter 701.

The term "reentry" is intended to cover a wide range of activities, including the act of returning a reusable launch vehicle to Earth. In establishing the legal framework for reentry, the Committee's approach is to treat reentry of a reentry vehicle the same as launch of a launch vehicle. Reentries described in section 70104(a) must be licensed, just as launches meeting these same criteria must be licensed. In addition, amendments to other sections of Chapter 701 grant to the Secretary the same authority and responsibility with respect to the licensing and regulation of the reentry of reentry vehicles as existing law provides to the Secretary with respect to the launch of vehicles.

An amendment to section 70102 also adds the phrase "from Earth" to the existing definition of "launch" in order to make clear the original intent of the Commercial Space Launch Act that the launch of a launch vehicle is an event that takes place from Earth, not from Earth orbit or otherwise from or in outer space. Although the definition of launch in the original Act lacks this explicit specification, the Act was otherwise quite clear that a launch for purposes of the license requirement takes place from a "launch site," which is defined in terms of a location "on Earth." Moreover, the legislative history of the Commercial Space Launch Act demonstrates that only launches from Earth were envisioned.

The amendment to section 70102 was originally prompted by a concern that the Department of Transportation was advocating the position that a reentry is subject to a launch license requirement on the grounds that reentry entailed the placing of a launch vehicle in a suborbital trajectory "from Earth orbit." Although the Department has since abandoned that position, the Committee wishes by this amendment to register its emphatic rejection of any interpretation of "launch" that would include space transportation activities that do not begin from Earth, such as reentry; the transfer of a satellite between one Earth orbit and another; or any other on-orbit operation after a launch is completed and before reentry is initiated.

The Committee intends that for purposes of the license requirement, reentry begins when the vehicle is prepared specifically for reentry. By way of definition, the Committee intends the term to apply to that phase of the overall space mission during which the reentry is intentionally initiated. Although this may vary slightly from system to system, as a general matter the Committee expects reentry to begin when the vehicle's attitude is oriented for propulsion firing to place the vehicle on its reentry trajectory.

The Committee acknowledges that in order to issue a license, the Department must be satisfied that an applicant has demonstrated capability to carry out a reentry safely and without jeopardy to critical national interests. The Committee also appreciates that, to evaluate capability, the Department may need to examine certain of the applicant's proposed procedures and activities that would precede initiation of reentry. However, the Committee wishes to make clear that these pre-reentry procedures or activities are not events requiring a license, nor otherwise subject to regulation. Rather, they would represent aspects of an application that the Department would have to measure against standards and criteria that the Department has established are necessary to evaluate capability to conduct the reentry. These standards and criteria may be generally applicable to all applicants or specific to a particular proposal. The Committee urges the Department to take the steps necessary to ensure that they are clearly articulated and understandable to license applicants.

There has been much discussion about what activities should be encompassed by the term "launch" for the purposes of the license requirement. It is the Committee's view that there are activities that precede flight that: (1) begin at a launch site in the United States, which may or may not be the actual launch site for a particular launch in question; (2) entail critical steps preparatory to initiating flight; (3) are unique to space launch; and (4) are inherently so hazardous to launch site personnel or property so as to warrant the Department's regulatory oversight under Chapter 701.

An array of hazardous pre-flight activities take place at launch sites in the United States in preparation for the flight of a launch vehicle. With the advent of new technologies and launch systems, the Committee finds that these activities may take place thousands of miles away from the launch site from which launch takes place, and several weeks or months in advance of an actual launch date. Nevertheless, they retain their hazardous nature as well as their direct relationship to the launch they support. Accordingly, as demonstrated by the Committee's passage of this bill, the Committee believes that the statute's definition of launch should be amended so that if an activity takes place at a launch site in the United States it will be subject to the oversight of the Office of Commercial Space Transportation and financial risk allocation scheme of the statute.

"Launch site in the United States" means a U.S. site from which a launch vehicle actually leaves from the surface of the Earth at any time. This bill does not extend federal launch licensing or launch oversight authority to a site in the United States at which limited activities such as launch vehicle and payload integration and processing occur and form which actual launch vehicle lift-offs never occur. Such areas are considered adequately regulated under local, state, and federal law.

The original Act intended that a launch ends, as far as the launch vehicle's payload is concerned, once the launch vehicle places the payload in Earth orbit or in the planned trajectory in outer space. The Committee wishes to make clear that the Secretary has no authority to license or regulate activities that take place between the end of the launch phase and the beginning of the

reentry phase, such as maneuvers between two Earth orbits or other non-reentry operations in Earth orbit; or after the end of a launch phase in the case of missions where the payload is not a reentry vehicle.

Sections 70112 and 70113, establishing an allocation of risk regime, are also amended to cover reentry in the same way that launches are covered. The Committee notes that these provisions apply to losses sustained as a result of licensed activities, (i.e., launches and reentries) not events or activities between launch and reentry; after reentry; or uncovered before launch. Once a launch or a reentry is completed no protection against third party liability is intended to be provided under Chapter 701 unless there is a clear causal nexus between the loss and the behavior of the launch or reentry vehicle. For instance, if, subsequent to a launch vehicle's successful deployment of a payload that is not a reentry vehicle, the payload returns to Earth and causes third party loss, the loss is not intended to be covered by sections 70112 and 70113. As another example, if during an airborne launch, the aircraft suffers an accident after the vehicle has separated from the aircraft and taken off, and the accident is not attributable to the launch vehicle, then this event is also not intended to be covered by sections 70112 and 70113.

Current law governing commercial space launch activities (49 USC 70101 et seq.) includes a provision designating that a launch vehicle or payload is not to be considered an export simply due to the launch itself. H.R. 1702 amends this provision to include reentries which should not be considered an import simply because of the reentry. Prior to enactment of the original Commercial Space Launch Act in 1984, the launch of a launch vehicle was considered an export. The intent of the original provision, launch not an export, was to obviate the need for an export license for a commercial launch since such a launch is not considered an export, in the traditional sense. There was never any intent that, launch not an export, would affect foreign trade zone procedures.

The Committee awaits greater clarification of the licensee's launch/reentry insurance and allocation of risk requirements through the Department's ongoing rulemaking action (14 CFR 440). Two new sections were added to Chapter 701, Sections 70120 and 70121. Section 70120 requires the Secretary of Transportation within 9 months after the date of enactment, to issue regulations to give industry guidelines and procedures related to insurance, launch licenses and government indemnification. Section 72120 also requires the Secretary of Transportation, within 6 months after the date of enactment, to issue a notice of proposed rulemaking related to reentry licenses. Section 70121 requires the Secretary of Transportation to submit an annual report on the activities undertaken under Chapter 701 and the performance of the Office of Commercial Space Transportation.

Additional amendments authorizing criteria for license application acceptance

Section 102 also amends Chapter 701 to authorize the Secretary to issue regulations establishing criteria for acceptance of a license application. The acceptance or rejection must be made within 60

days of receipt of the application. The purpose of this amendment is to: (1) limit the undue expenditure of Office resources on determining whether an application is viable; and (2) to provide the applicant with timely notice of whether the application will be accepted.

Section 103 Launch Voucher Demonstration Program

Sectional Analysis

Section 504 of the Fiscal Year 1993 National Aeronautics and Space Administration Act (P.L. 102–588) is amended by striking outdated references to dates and offices.

Committee Views

This section strikes the sunset date of the Launch Voucher Demonstration Program so that NASA can continue the program if it wishes to, but does not require continuation of the program.

Section 104 Promotion of United States Global Positioning System Standards

Sectional Analysis

Encourages the President to ensure the operation of the U.S. Global Positioning System (GPS) on a continuous worldwide basis, free of direct user fees and to enter into agreements that promote cooperation with foreign governments in order to establish GPS and its augmentations as the accepted international standard.

Committee Views

The Committee congratulates the Administration for its policies regarding use of the Global Positioning System. In general, Members of Congress agree that it is in the U.S. interest to encourage continued commercial use of this system, and that it is in the interest of U.S. national security for the U.S. GPS system to become the world's standard. Consequently, the Congress expresses its support for this policy in this section and encourages the Administration to proceed with international negotiations designed to advance U.S. national interests and support foreign use of the GPS system. Finally, the Committee reasserts its support for ensuring the continuous operation of the GPS signal globally without direct user fees.

In March 1996, the President released a policy statement on the U.S. Global Positioning System (GPS). That policy recognizes the national security benefits of making the U.S. system the world's standard, as laid out in reports from the National Academy of Public Administration, the National Research Council, and the RAND Corporation. A unique opportunity exists to shape the direction of this global industry so that it grows in a manner consistent with and supportive of U.S. national security and economic interests. Establishing GPS as the world's standard requires the United States to adopt a mature, even-handed, and reliable role as a provider of positioning data from the Global Positioning System.

The Committee understands that the Fiscal Year 1998 defense authorization bill currently completing conference negotiations addresses the policy framework for protecting national security while making GPS the world standard. H.R. 1702 enhances this message

by encouraging the President to enter into agreements with foreign entities to make GPS the world standard and to continue the policy of making the GPS signal available globally without direct user fees. The language offered in H.R. 1702 is non-binding, and simply expresses Congressional support for the President's policy. This language helps assure negotiating partners that the elected officials of the United States government are speaking with one voice on this issue and is intended to strengthen the President's negotiating position and ability to ensure his policies are carried out. The President's policy is innovative and gives the United States the unique opportunity to shape the direction of space-based navigation around the world. The bill supports the President's leadership. It should also be clear to the State Department that Congress views its efforts to help negotiate regional agreements to make the U.S. Global Positioning System the world's standard as extremely important to U.S. national security and the continuing success of the U.S. commercial space industry.

Section 105 Acquisition of Space Science Data

Sectional Analysis

This section states that NASA shall, to the maximum extent possible, acquire space science data from commercial providers, where cost-effective, and while satisfying scientific requirements. Acquisitions of space science data are to be carried out in accordance with applicable acquisition laws and regulations. Further, space science data is to be treated as a commercial item under applicable acquisition laws.

Committee Views

The purpose of this section is to encourage the Administrator of NASA to acquire space science data commercially. For those data sets with both scientific merit and commercial appeal, NASA can spur commercial enterprises while acquiring the data faster and cheaper.

Section 106 Administration of Commercial Space Centers

Sectional Analysis

This section directs the Administrator of NASA to manage the Commercial Space Centers as a coordinated program out of NASA Headquarters.

Committee Views

In recent years, due to a series of reorganizations, NASA's efforts to promote U.S. commercial space activities have grown increasingly diffuse. In particular, the management of—and funding decisions regarding—the Commercial Space Centers (CSCs, formerly known as the Centers for the Commercial Development of Space) have been transferred to NASA's field centers. In some cases, either sufficient funding has not been transferred to maintain CSC activities at planned levels, or internal field center budget pressures have caused the reduction or elimination of several CSCs' funding, including an unscheduled closure of one CSC.

The Committee does believe that NASA can and should close CSCs which are not performing well according to peer review standards, but that process should be shielded from any one field center's budgetary pressures. The best way to do that is to maintain a unified CSC program based at NASA Headquarters.

The Committee also believes that all parts of NASA, most especially its field centers, should be actively engaged in implementing the NASA Act's (National Aeronautics and Space Act of 1958, as amended 42 U.S.C. 2451) mandate to "promote the fullest possible commercial use of space," and therefore can and should build strong technical and even managerial relationships with CSCs. But it remains NASA headquarters' (and therefore the Administrator's) responsibility to judge the performance of, and make budgetary decisions about, CSCs across disciplines and industry areas according to a coordinated set of standards and metrics.

Title II—Remote Sensing

Section 201 Land Remote Sensing Policy Act of 1992 Amendments

Sectional Analysis

Updates the Land Remote Sensing Policy Act of 1992 (15 U.S.C. 5601 et seq.). Requires the Secretary of Commerce to publish a list of requirements for applicants seeking a license to own and operate a remote sensing satellite. Creates a presumption of approval for license applications that comply with title requirements. Prevents the Secretary of Commerce from seeking to enjoin a licensee from entering into a foreign agreement unless the Secretary first transmits a determination to the licensee that such participation is inconsistent with national security or international obligations. Requires the Secretary of Commerce to notify Congress of any action to limit collection or distribution of data. Requires the Secretary of Commerce to report to Congress any injunctions that it seeks against a commercial provider. Prohibits the Federal Government from duplicating commercial provider activities unless such activities would result in significant savings or are necessary for reasons of national security or international obligations. Requires the Secretary of Commerce to consult with the Secretaries of Defense and State regarding license applications and the Secretaries of Defense and State to determine whether such applications are consistent with U.S. national security interests and international obligations. Treats the absence of objection from either the Secretary of Defense or State to a license application as confirmation that the application is consistent with U.S national security and international obligations within a specific time period. Encourages the U.S. government to consider providing vouchers for use of U.S. commercial remote sensing services and products to developing nations as a component of U.S. international aid programs.

Committee Views

Congress worked on a bipartisan basis to pass the Land Remote Sensing Policy Act of 1992 (P.L. 102–555), which President Bush signed. That law enabled the commercial sector to design, build, own and operate satellites that image the Earth from space. Such systems have multiple uses, including land-use planning, construc-

tion site management, precision agriculture, pollution detection and environmental cleanup. The Department of Commerce estimates that this market could reach $2.4 billion by the year 2000. Several foreign governments are entering this commercial market and directing their government space agencies or government-owned firms to sell remote sensing data on the commercial market.

Given this development and 5 years of experience with the 1992 Act, there is a need to update the law and preserve the competitive advantage that U.S. companies have in this industry. To its credit, the Department of Commerce has improved the licensing process considerably since its first experiences. Both the National Oceanic and Atmospheric Administration and Office of Air and Space Commercialization have worked assiduously to draft new regulations and remove obstacles to the industry's accelerated growth. Nevertheless, the need to update existing law remains.

The bill establishes a presumption that a license application which satisfies the requirements of law shall be granted. While this would seem self-evident, it is the Committee's intention to signal its strong support of this area of economic growth. Furthermore, the presumption to grant a license should make it clear that the burden of proof for denying a license rests with the Federal Government. In other words, it is not the license applicant's burden to prove that it should be allowed to engage in legal commercial activity. Instead, it is the government's responsibility to clearly demonstrate that an applicant should not receive a license if such a license is to be denied. The Secretary of Commerce continues to retain authority and responsibility to exercise judgment about the appropriateness of granting an applicant's license, while the Secretaries of Defense and State respectively retain their authority to determine that a granted license is consistent with U.S. national security concerns and international obligations.

There is a specific timeline in which the Secretary of Commerce, under current law, has to consider an application for a license to operate a commercial remote sensing satellite. Unfortunately, in the case of some licenses that have been issued under the law, the Commerce Department has exceeded the timeframe in which it is supposed to rule on a license application. Part of the problem has occurred at the beginning of the process, while the Commerce Department and the license applicant negotiate the information that must be included in an application in order to consider it complete. The bill requires the Secretary of Commerce to determine what information is necessary for an application to be considered complete and to make its determination public, so that there is a common frame of reference for all applicants. In this manner, both the commercial sector and the government will share a common understanding of the parameters for considering license applications. It is the Committee's presumption that the 120-day timeframe in which the United States has to act on a license application under existing law will not begin until the license application is considered complete, as determined by the Department of Commerce.

Another reason the timeframe for granting or denying an application has been exceeded is the lengthy interagency process for reviewing license applications. Both the Secretary of Defense and the Secretary of State review license applications to ensure that they

are consistent with U.S. national security concerns and international obligations. Both Departments have taken too long to make such a determination. The bill requires that they inform the Secretary of Commerce of any concerns within 60 days of the request from the Secretary of Commerce. The Committee presumes that the Secretary of Commerce would not make such a request until a license is considered complete and the license application contains the information needed for the Departments of Defense and State to meet their obligation to respond to the Secretary of Commerce within 60 days. If no objections are raised by the Secretaries of Defense and State within this 60-day period, the Secretary of Commerce is to treat the application as consistent with U.S. national security and international obligations.

The Committee expects that concerns raised by the Secretaries of Defense or State about a license application or the continued operation of a satellite under an existing license, during times when national security or international obligations are involved, will be of a sufficient nature to pass a high standard, such as those that govern prior restraint of the media. The Committee believes that long-term national security interests are best served if U.S. companies dominate the commercial remote sensing industry, which they cannot do if foreign governments create a more stable legal and regulatory environment governing remote sensing than the U.S. government.

Today's high technology enterprises and venture capital markets are globalized, meaning American companies cannot remain at the cutting edge of technology if they do not have networks of contacts with overseas entities and access to foreign-developed expertise. The U.S. government is still working through all of the issues involved in how it regulates technology-centered businesses in this new age of globalized technology. One mechanism is to require U.S. companies to notify the Federal Government of their arrangements with foreign entities. The Land Remote Sensing Policy Act of 1992 (P.L. 102–555), the White House Policy on Remote Sensing (1994), and H.R. 1702, the Commercial Space Act of 1997 all contain such notification requirements. The intention of the provision in the Land Remote Sensing Policy Act of 1992 was to protect U.S. national security interests by ensuring that a licensee was not controlled by a foreign entity and to provide information on which customers are obtaining which images. However, in practice, licensed U.S. commercial remote sensing satellite firms have been required to report financing and investment transactions that do not directly affect corporate control or imaging activities. Additionally, such notification has triggered an interagency review of the original license application and the allowable imaging activities. The Committee believes that this practice exceeds the authority given to the Executive Branch in the original Act and that it should not be continued. The President's policy on remote sensing is entirely correct on this matter. It reads, "Pursuant to this Act, the U.S. Government requires U.S. companies that have been issued operating licenses under the Act to notify the U.S. Government of its intent to enter into significant or substantial agreements with new foreign customers." Reviews of agreements between U.S.-licensed companies and foreign entities that explore more than the distribution of data

exceed the authority contained in the President's policy. The bill's language regarding "significant or substantial agreement relating to land remote sensing" is not to be viewed as inconsistent with the existing practice of requiring licensees to notify the Secretary of Commerce of any significant or substantial agreements that affect control of the licensee by U.S. persons.

H.R. 1702 requires licensees to notify the government only of "any significant or substantial agreement relating to land remote sensing." The bill preserves the ability of the U.S. government to review images taken by a U.S. company and to verify that U.S. licensed companies and their satellites remain under the control of U.S. persons. It does not require licensees to report every transaction with a foreign entity to the U.S. government. Therefore, it strikes an appropriate balance between the need to provide a stable business environment with the need to provide effective protection of U.S. national security concerns and international obligations.

To remain in business, high technology enterprises must make business decisions more quickly than the government does. The slow pace of government decision-making thus threatens to hinder the competitive advantage that U.S. firms seek over their foreign competition. Therefore, the bill requires the Secretary of Commerce to respond to a notification of a foreign agreement within 30 days. The bill prohibits the Secretary of Commerce from seeking to enjoin a U.S. company from entering into such agreements without notifying the licensee within 30 days that the agreement is inconsistent with U.S. national security or international obligations. The Secretary of Commerce is further required to explain such inconsistencies in detail, since the Federal Government has a responsibility to tell U.S. citizens engaging in legal commercial activity why it intends to prohibit them from engaging in legal commercial activity. Only by telling licensees why agreements are deemed inconsistent with U.S. national security and international obligations can the government expect them to make future efforts to avoid entering into similar agreements. In this manner, companies will not be forced to waste resources waiting too long for a government decision. This provision should not be interpreted as undermining the Secretary's authority under Section 203 of the Land Remote Sensing Policy Act of 1992 to go to court to alter a granted license or terminate the operation of a licensed satellite if the Secretary deems doing so is necessary to ensure the licensee lives up to its obligation to operate a remote sensing spacecraft in a manner consistent with U.S. national security concerns or international obligations. It is the Committee's interpretation that the Secretary's authority under Section 203 of the Land Remote Sensing Policy Act of 1992 exists at all times, regardless of what type of information about foreign agreements the Secretary has and the timeframe in which the Secretary received it.

The bill adds a new paragraph to Section 301 of the Land Remote Sensing Policy Act of 1992. The new paragraph prohibits the Federal Government from duplicating or otherwise competing with the commercial sector in offering commercial remote sensing goods and services, including value-added activity undertaken by the Geographic Information Systems industry in the United States. Exceptions are permitted when government duplication of a commer-

cial activity results in significant cost savings or is necessary for reasons of national security or international obligations. Given the extraordinary lengths to which the government goes to spin technology off into the commercial sector and thereby create new goods, services, and jobs, it makes no sense for the government to offer commercial goods and services that compete with the commercial sector. This measure does not prohibit public-private partnerships to create new technology. Rather, it prevents the government from wasting tax dollars to duplicate goods and services already available from the commercial sector.

Finally, current law encourages the U.S. government to provide appropriate imagery to countries receiving foreign aid as a component of the foreign aid program. Commercial remote sensing imagery can be very conducive to foreign aid and such imagery can help the developing world more efficiently manage its resources and economic growth. Nevertheless, the Committee does not believe that the U.S. government should be in the commercial remote sensing business. Therefore, the bill alters this section of the 1992 Act and encourages U.S. departments and agencies that manage foreign aid programs to provide vouchers for developing nations to obtain remote sensing imagery and interpretative training from commercial providers.

Section 202 Acquisition of Earth Science Data

Sectional Analysis

This section states that NASA shall, to the maximum extent possible, acquire Earth remote sensing data from commercial providers, where cost-effective, and while satisfying scientific requirements. Acquisitions are to be carried out in accordance with applicable acquisition laws and regulations. Further, Earth remote sensing data is to be treated as a commercial item under applicable acquisition laws. The section also requires a study on how scientific requirements of Mission to Planet Earth can be met by commercial providers.

Committee Views

This provision of the bill directs NASA to purchase commercial Earth science data to meet the requirements of Mission to Planet Earth when such data is cost-effective and satisfies scientific requirements. Furthermore, the bill directs NASA to treat such data as a commercial item under applicable acquisition laws.

The section also directs NASA to conduct a study to determine how commercial provider capabilities can be best used to meet Mission to Planet Earth's baseline scientific requirements. As part of the study, NASA is expected to determine what steps are necessary by both the commercial sector and the Federal Government to make this program efficient and effective. Finally, the study and data purchase activity is required to be carried out by the Commercial Remote Sensing Program (CRSP) at the Stennis Space Center. CRSP is widely acknowledged as one of the Nation's premier institutions for stimulating private investment in space capabilities that help meet government needs. Because CRSP is small, streamlined, and horizontally organized, the program succeeds largely be-

cause it is able to make decisions quickly and enjoys a degree of autonomy that reduces bureaucratic costs.

Title III—Federal Acquisition of Space Transportation Services

Section 301 Requirement to Procure Commercial Space Transportation Services

Sectional Analysis

Requires the Federal Government to procure space transportation services from U.S. commercial providers and, to the maximum practicable extent, plan missions to accommodate the space transportation capabilities of U.S. commercial providers. Exceptions to this policy: the payload requires the unique capabilities of the Space Shuttle; U.S. commercial providers cannot provide cost-effective space transportation services when required; the use of space transportation services from U.S. commercial providers poses an unacceptable risk of loss of a unique scientific opportunity; the use of space transportation services from U.S. commercial providers is inconsistent with U.S. national security objectives; it is more cost-effective to launch a payload in conjunction with the test or demonstration of a space transportation vehicle owned by the Federal Government; or a payload can make use of the available cargo space on a Space Shuttle mission as a secondary payload, and such payload is consistent with specific requirements authorized by the Administrator. Directs only the Secretary of the Air Force or the NASA Administrator to make determinations about when an exception shall be granted. Does not apply to space transportation services and vehicles acquired or owned by the Federal Government before the enactment date or to contracts for such acquisition or ownership that have been entered into prior to the enactment date.

Committee Views

This provision is intended to promote the operation of a market in space transportation services that will enable U.S. commercial space transportation companies to focus their business on beating foreign competition in providing such services, rather than on increasing the award fee in contracts with the Federal Government. To its credit, NASA already purchases space transportation services commercially. The Department of Defense, however, continues to purchase space transportation vehicles instead of services. It is concerned that the classified nature of many Defense Department payloads would be at risk if the Department procured commercial space transportation services from the commercial sector. The commercial sector actually builds the classified payloads that Department of Defense launches. If the Defense Department can accept that the commercial sector can build its classified payloads, then it should be able to accept the commercial sector launching them. In any event, the section does address Defense Department concerns by making an exception to the requirement to purchase commercial space transportation services in cases where that is inconsistent with U.S. national security. Furthermore, the "case-by-case" determination by the Secretary of the Air Force, as required in Title III, Section 301, paragraph (b), is not required for each individual launch. The Secretary may make a blanket determination

for a class of payloads—such as Global Positioning System Satellites or Defense Support Program satellites—as part of the approval process for a space program acquisition decision.

Section 302 Acquisition of Space Transportation Services

Sectional Analysis

Space transportation services are to be considered a "commercial item" for purposes of acquisition laws and regulations.

Committee Views

Consistent with ongoing efforts to reform the federal procurement system and reduce the costs of government activity, this section requires the Federal Government to act in the manner of a commercial customer when it procures space transportation services.

Section 303 Launch Services Purchase Act of 1990 Amendments

Sectional Analysis

Updates the Launch Services Purchase Act of 1990 (42 U.S.C. 2465b et seq.)

Committee Views

This section updates the Launch Services Purchase Act to conform to other sections of the bill. It also preserves the prohibition against the Space Shuttle launching commercial payloads.

VII. Committee Cost Estimate

Clause 7(a) of Rule XIII of the Rules of the House of Representatives requires each committee report accompanying each bill or joint resolution of a public character to contain: (1) an estimate, made by such Committee, of the costs which would be incurred in carrying out such bill or joint resolution in the fiscal year in which it is reported, and in each of the 5 fiscal years following such fiscal year (or for the authorized duration of any program authorized by such bill or joint resolution, if less than 5 years); (2) a comparison of the estimate of costs described in subparagraph (1) of this paragraph made by such Committee with an estimate of such costs made by any government agency and submitted to such Committee; and (3) when practicable, a comparison of the total estimated funding level for the relevant program (or programs) with the appropriate levels under current law. However, clause 7(d) of that Rule provides that this requirement does not apply when a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and included in the report pursuant to clause 2(l)(3)(C) of Rule XI. A cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of this report and included in Section VIII of this report pursuant to clause 2(l)(3)(C) of Rule XI.

Clause 2(l)(3)(B) of Rule XI of the Rules of the House of Representatives requires each committee report that accompanies a measure providing new budget authority (other than continuing appropriations), new spending authority, or new credit authority, or changes in revenues or tax expenditures to contain a cost estimate, as required by section 308(a)(1) of the Congressional Budget Act of 1974 and, when practicable with respect to estimates of new budget authority, a comparison of the total estimated funding level for the relevant program (or programs) to the appropriate levels under current law. H.R. 1702 does not contain any new budget authority, credit authority, or changes in revenues or tax expenditures. Assuming that the sums authorized under the bill are appropriated, H.R. 1702 does authorize additional discretionary spending, as described in the Congressional Budget Office report on the bill, which is contained in Section VIII of this report.

VIII. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

CONGRESSIONAL BUDGET OFFICE
U.S. CONGRESS
WASHINGTON, DC. 20515
JUNE E. O'NEILL, DIRECTOR

June 24, 1997

Honorable F. James Sensenbrenner, Jr.,
Chairman, Committee on Science,
U.S. House of Representatives,
Washington, DC. 20515

DEAR MR. CHAIRMAN:

The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1702, the Commercial Space Act of 1997.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Kathleen Gramp (for federal costs), who can be reached at 226-2860, Pepper Santalucia (for the state and local impact), who can be reached at 225-3220, and Lesley Frymier (for the impact on the private sector), who can be reached at 226-2940.

Sincerely,

JAMES L. BLUM FOR JUNE E. O'NEILL

Enclosure

cc: Honorable George E. Brown, Jr., Ranking Minority Member

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

JUNE 24, 1997

H.R. 1702

Commercial Space Act of 1997

As ordered reported by the House Committee on Science on June 18, 1997

SUMMARY

H.R. 1702 would revise federal policies related to the procurement and licensing of services and products provided by the commercial space industry. Assuming the appropriation of the necessary amounts, CBO estimates that enacting H.R. 1702 would result in increased discretionary spending of about $4 million to $7 million over the 1998–2002 period. Because H.R. 1702 could affect direct spending and revenues, pay-as-you-go procedures would apply. CBO estimates, however, that any such effects would be negligible.

The bill contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act of 1995 (UMRA), and would not impose any costs on state, local, or tribal governments. The bill would impose new private-sector mandates, but CBO estimates that the cost of these mandates would not exceed the statutory threshold established in UMRA.

This bill would define space transportation services, remote sensing data, and space science data as "commercial items" for the purposes of certain procurement policies, and would require federal agencies to acquire these services from the private sector, subject to certain conditions. It would change the process and conditions for licensing remote sensing systems and would expand the scope of licensing of space transportation systems to include reentry vehicles, sites, and operations. The National Aeronautics and Space Administration (NASA) would be directed to conduct studies on opportunities for private sector participation in the International Space Station and Mission to Planet Earth. Finally, the bill would encourage the President to promote international acceptance of the U.S. Global Positioning System as the standard for such systems.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

CBO expects that federal agencies would incur additional costs ranging from about $4 million to $7 million over the 1998–2002 period to implement H.R. 1702. Assuming the appropriation of the necessary amounts, enacting this bill would increase discretionary spending by a corresponding amount. Provisions related to launch services and the licensing of reentry vehicles could affect direct spending and revenues, but CBO estimates that the effects would not be significant.

Spending Subject to Appropriation

The estimated increase in discretionary spending primarily reflects the costs that would be incurred to implement the reporting and licensing requirements of the bill. For example, H.R. 1702 would require the Department of State and the Department of Defense (DOD) to publish lists of all international agreements and national security issues that pertain to the licensing of private remote sensing systems within 180 days after enactment. NASA would have to fund an independently conducted market study of private-sector interest in aspects of the space station and report to the Congress on opportunities associated with the space station and the Mission to Planet Earth. The bill also would direct the Office of Commercial Space Transportation (OCST, at the Department of Transportation) to issue regulations for licensing reentry vehicles, sites, and operations, and the National Oceanic and Atmospheric Administration (NOAA, at the Department of Commerce) to revise regulations related to the licensing of remote sensing space systems. Based on information provided by these agencies, CBO estimates that the cost of performing these tasks would total about $2 million to $3 million governmentwide in 1998.

Provisions affecting the acquisition of space-related services are likely to increase agencies' administrative costs, at least in the near-term. Under this bill, DOD and NASA would have to issue a determination supporting the choice of a space transportation system for each launch rather than making these decisions for clusters of systems (e.g., based on performance blocks or payload risk). CBO estimates that federal spending would increase by about $2 million to $4 million over the 1998–2002 period because of the additional analyses and studies that would be required to support the choice of services. According to agency officials, the provisions defining space transportation services, remote sensing data, and space science data as "commercial items" could increase the time and effort involved in evaluating contracts because that designation would limit the scope of information readily available from vendors on product specifications. The potential impact of this change on agencies' costs is difficult to project with any certainty, however.

CBO estimates that directing NASA to purchase space science and Earth system data from commercial providers when cost-effective would not significantly affect federal spending. Several agencies, including NOAA, the U.S. Geological Survey, and the Federal Emergency Management Agency, currently buy remote sensing data from NASA at its marginal cost, which may be less than what they would have to pay if NASA had to acquire the information from commercial providers. Assuming that NASA would purchase commercial data only if the terms of the acquisition would be cost-effective governmentwide, these provisions should not increase costs to the government. At the same time, very few commercial ventures now provide the kinds of data used by federal agencies, so there is no basis for estimating any near-term savings for the government from this policy.

Likewise, CBO estimates that the provisions in the bill requiring DOD and NASA to acquire space transportation systems from commercial providers when cost-effective are unlikely to have a significant effect on federal spending for launch services

over the next five years. Launch services for most DOD missions planned for the 1998–2002 period, for example, are already under contract and hence would be exempt from the mandates that would be imposed by H.R. 1702. Any reduction in the government's cost of space transportation services resulting from this bill would most likely occur sometime in the future.

Finally, H.R. 1702 would strengthen the government's obligation to reimburse licensees of remote sensing systems for the cost of technical modifications needed to comply with conditions that DOD or the State Department impose on these licensees for national security purposes. Because CBO expects these agencies to reimburse licensees for all appropriate costs under current law, we estimate that requiring such payments would not significantly change the amounts that would be paid. Other provisions of the bill would not have a significant effect on discretionary spending.

Direct Spending

Enacting H.R. 1702 could affect the collecting and spending of receipts paid by nonfederal entities that use federal launch property or services, but we estimate that the net impact would not be significant. Under current law, nonfederal entities reimburse DOD and NASA for using such facilities and the agencies directly spend the proceeds to cover the costs incurred. Because any increase in receipts resulting from additional commercial activity would be offset by direct spending, the net effect of the bill on direct spending would be negligible.

Revenues

H.R. 1702 would allow OCST to impose civil penalties on violators of licensing agreements, which could affect revenues. CBO estimates that any additional receipts from civil penalties associated with the OCST licensing activities required by this bill would be insignificant. To date, OCST has never collected a penalty for a violation of the licensing and related requirements of the commercial space transportation program.

PAY-AS-YOU-GO CONSIDERATIONS

Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1998. Enacting H.R. 1702 could affect direct spending and receipts because of provisions involving reimbursement for the use of certain federal services and facilities and imposing civil penalties for failure to comply with space transportation regulations. CBO estimates, however, that these provisions would have little or no budgetary impact.

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

H.R. 1702 contains no intergovernmental mandates as defined in UMRA, and would not impose any costs on state, local, or tribal governments. The bill would broaden the scope of the Department of Transportation's commercial space transportation program to include inspace transportation and reentry activities, rather than just launch activities. One of the purposes of this program is to facilitate the participation of state governments in the provision of space transportation infrastructure, such as launch sites. The Secretary of Transportation is required to make excess launch property available to state governments. By broadening the scope of the program, the bill would enable states to receive additional assistance if they choose to participate.

ESTIMATED IMPACT ON THE PRIVATE SECTOR

Section 102 would require operators of reentry sites to obtain a license from the OCST for reentry sites, vehicles, and services. CBO estimates that the direct costs of these private sector mandates would not exceed the statutory threshold ($100 million in 1996, adjusted annually for inflation) established in UMRA in any one year.

PREVIOUS CBO ESTIMATE

On April 21, 1997, CBO transmitted a cost estimate for H.R. 1275, the Civilian Space Authorization Act, Fiscal Years 1998 and 1999, as ordered reported by the House Committee on Science on April 16, 1997. H.R. 1275 included provisions similar to those in H.R. 1702 regarding OCST licensing and NASA's acquisition of remote sensing and space science data. Unlike H.R. 1275, the OCST provisions of H.R. 1702 would not affect direct spending because this bill would not change the statutory basis of the fees paid to reimburse federal agencies for the use of launch services or facilities.

ESTIMATE PREPARED BY:

Federal Costs: Kathleen Gramp (226-2860)
Impact on State, Local, and Tribal Governments: Pepper Santalucia (225-3220)
Impact on the Private Sector: Lesley Frymier (226-2940)

ESTIMATE APPROVED BY:

Paul N. Van de Water, Assistant Director for Budget Analysis

IX. Compliance with Public Law 104–4

H.R. 1702 contains no unfunded mandates.

X. Committee Oversight Findings and Recommendations

Clause 2(l)(3)(A) of Rule XI of the Rules of the House of Representatives requires each committee report to include oversight findings and recommendations required pursuant to clause 2(b)(1) of Rule X. The Committee has no oversight findings.

XI. Oversight Findings and Recommendations by the Committee on Government Reform and Oversight

Clause 2(l)(3)(D) of Rule XI of the Rules of the House of Representatives requires each committee report to contain a summary of the oversight findings and recommendations made by the House Government Reform and Oversight Committee pursuant to clause 4(c)(2) of Rule X, whenever such findings and recommendations have been submitted to the Committee in a timely fashion. The Committee on Science has received no such findings or recommendations from the Committee on Government Reform and Oversight.

XII. Constitutional Authority Statement

Clause 2(l)(4) of Rule XI of the Rules of the House of Representatives requires each report of a Committee on a bill or joint resolution of a public character to include a statement citing the specific powers granted to the Congress in the Constitution to enact the law proposed by the bill or joint resolution. Article 1, section 8 of the Constitution of the United States grants Congress the authority to enact H.R. 1702.

XIII. Federal Advisory Committee Statement

This legislation does not establish, or authorize the establishment of, any new Federal Advisory Committee.

XIV. Congressional Accountability Act

The Committee finds that H.R. 1702 does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (Public Law 104–1).

XV. EFFECTS OF LEGISLATION ON INFLATION

The legislation should have no effect on inflation rates.

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

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

CHAPTER 701 OF TITLE 49, UNITED STATES CODE

* * * * * * *

CHAPTER 701—COMMERCIAL SPACE LAUNCH ACTIVITIES

Sec.
70101. Findings and purposes.
* * * * * * *
[70104. Restrictions on launches and operations.]
70104. Restrictions on launches, operations, and reentries.
* * * * * * *
[70108. Prohibition, suspension, and end of launches and operation of launch sites.
[70109. Preemption of scheduled launches.]
70108. Prohibition, suspension, and end of launches, operation of launch sites and reentry sites, and reentries.
70109. Preemption of scheduled launches or reentries.
* * * * * * *
70120. Regulations.
70121. Report to Congress.

§ 70101. Findings and purposes

(a) FINDINGS.—Congress finds that—
(1) * * *

* * * * * * *

(3) new and innovative equipment and services are being sought, produced, and offered by entrepreneurs in telecommunications, information services, *microgravity research,* and remote sensing technologies;

(4) the private sector in the United States has the capability of developing and providing private satellite launching*, reentry,* and associated services that would complement the launching*, reentry,* and associated services now available from the United States Government;

(5) the development of commercial launch vehicles*, reentry vehicles,* and associated services would enable the United States to retain its competitive position internationally, contributing to the national interest and economic well-being of the United States;

(6) providing launch services *and reentry services* by the private sector is consistent with the national security and foreign policy interests of the United States and would be facili-

tated by stable, minimal, and appropriate regulatory guidelines that are fairly and expeditiously applied;

(7) the United States should encourage private sector launches*, reentries,* and associated services and, only to the extent necessary, regulate those launches*, reentries,* and services to ensure compliance with international obligations of the United States and to protect the public health and safety, safety of property, and national security and foreign policy interests of the United States;

(8) space transportation, including the establishment and operation of launch sites*, reentry sites,* and complementary facilities, the providing of launch services *and reentry services*, the establishment of support facilities, and the providing of support services, is an important element of the transportation system of the United States, and in connection with the commerce of the United States there is a need to develop a strong space transportation infrastructure with significant private sector involvement; and

(9) the participation of State governments in encouraging and facilitating private sector involvement in space-related activity, particularly through the establishment of a space transportation-related infrastructure, including launch sites, *reentry sites,* complementary facilities, and launch site *and reentry site* support facilities, is in the national interest and is of significant public benefit.

(b) PURPOSES.—The purposes of this chapter are—

(1) to promote economic growth and entrepreneurial activity through use of the space environment for peaceful purposes;

(2) to encourage the United States private sector to provide launch vehicles*, reentry vehicles,* and associated services by—

(A) simplifying and expediting the issuance and transfer of commercial **[**launch**]** licenses; and

(B) facilitating and encouraging the use of Government-developed space technology;

(3) to provide that the Secretary of Transportation is to oversee and coordinate the conduct of commercial launch *and reentry* operations, issue and transfer commercial **[**launch**]** licenses authorizing those operations, and protect the public health and safety, safety of property, and national security and foreign policy interests of the United States; and

(4) to facilitate the strengthening and expansion of the United States space transportation infrastructure, including the enhancement of United States launch sites and launch-site support facilities, *and development of reentry sites,* with Government, State, and private sector involvement, to support the full range of United States space-related activities.

§ 70102. Definitions

In this chapter—

(1) * * *

* * * * * * *

(3) "launch" means to place or try to place a launch vehicle [and any payload] *or reentry vehicle and any payload from Earth*—

(A) in a suborbital trajectory;

(B) in Earth orbit in outer space; or

(C) otherwise in outer space[.],

including activities involved in the preparation of a launch vehicle or payload for launch, when those activities take place at a launch site in the United States.

(4) "launch property" means an item built for, or used in, the launch preparation or launch of a launch vehicle.

(5) "launch services" means—

(A) activities directly related to the preparation of a launch site or payload facility for one or more launches;

[(A)] *(B)* activities involved in the preparation of a launch vehicle and payload for launch; and

[(B)] *(C)* the conduct of a launch.

* * * * * * *

(8) "payload" means an object that a person undertakes to place in outer space by means of a launch vehicle *or reentry vehicle*, including components of the vehicle specifically designed or adapted for that object.

(9) "person" means an individual and an entity organized or existing under the laws of a State or country.

(10) "reenter" and "reentry" mean to return or attempt to return, purposefully, a reentry vehicle and its payload, if any, from Earth orbit or from outer space to Earth.

(11) "reentry services" means—

(A) activities involved in the preparation of a reentry vehicle and its payload, if any, for reentry; and

(B) the conduct of a reentry.

(12) "reentry site" means the location on Earth to which a reentry vehicle is intended to return (as defined in a license the Secretary issues or transfers under this chapter).

(13) "reentry vehicle" means a vehicle designed to return from Earth orbit or outer space to Earth, or a reusable launch vehicle designed to return from outer space to Earth, substantially intact.

[(10)] *(14)* "State" means a State of the United States, the District of Columbia, and a territory or possession of the United States.

[(11)] *(15)* "third party" means a person except—

(A) the United States Government or the Government's contractors or subcontractors involved in launch services *or reentry services*;

(B) a licensee or transferee under this chapter;

(C) a licensee's or transferee's contractors, subcontractors, or customers involved in launch services *or reentry services*; or

(D) the customer's contractors or subcontractors involved in launch services *or reentry services*.

[(12)] *(16)* "United States" means the States of the United States, the District of Columbia, and the territories and possessions of the United States.

§ 70103. General authority

(a) GENERAL.—The Secretary of Transportation shall carry out this chapter.

(b) FACILITATING COMMERCIAL LAUNCHES *AND REENTRIES*.—In carrying out this chapter, the Secretary shall—

(1) encourage, facilitate, and promote commercial space launches *and reentries* by the private sector; and

(2) take actions to facilitate private sector involvement in commercial space transportation activity, and to promote public-private partnerships involving the United States Government, State governments, and the private sector to build, expand, modernize, or operate a space launch *and reentry* infrastructure.

(c) EXECUTIVE AGENCY ASSISTANCE.—When necessary, the head of an executive agency shall assist the Secretary in carrying out this chapter.

[§ 70104. Restrictions on launches and operations]

§ 70104. Restrictions on launches, operations, and reentries

(a) LICENSE REQUIREMENT.—A license issued or transferred under this chapter is required for the following:

(1) for a person to launch a launch vehicle or to operate a launch site *or reentry site, or to reenter a reentry vehicle,* in the United States.

(2) for a citizen of the United States (as defined in section 70102(1)(A) or (B) of this title) to launch a launch vehicle or to operate a launch site *or reentry site, or to reenter a reentry vehicle,* outside the United States.

(3) for a citizen of the United States (as defined in section 70102(1)(C) of this title) to launch a launch vehicle or to operate a launch site *or reentry site, or to reenter a reentry vehicle,* outside the United States and outside the territory of a foreign country unless there is an agreement between the United States Government and the government of the foreign country providing that the government of the foreign country has jurisdiction over the launch or operation *or reentry*.

(4) for a citizen of the United States (as defined in section 70102(1)(C) of this title) to launch a launch vehicle or to operate a launch site *or reentry site, or to reenter a reentry vehicle,* in the territory of a foreign country if there is an agreement between the United States Government and the government of the foreign country providing that the United States Government has jurisdiction over the launch or operation *or reentry*.

(b) COMPLIANCE WITH PAYLOAD REQUIREMENTS.—The holder of a **[**launch license**]** *license* under this chapter may launch *or reenter* a payload only if the payload complies with all requirements of the laws of the United States related to launching *or reentering* a payload.

(c) **[**PREVENTING LAUNCHES.—**]** *PREVENTING LAUNCHES AND REENTRIES.*—The Secretary of Transportation shall establish whether all required licenses, authorizations, and permits required for a payload have been obtained. If no license, authorization, or permit is required, the Secretary may prevent the launch *or reentry*

if the Secretary decides the launch *or reentry* would jeopardize the public health and safety, safety of property, or national security or foreign policy interest of the United States.

§ 70105. License applications and requirements

(a) APPLICATIONS.—*(1)* A person may apply to the Secretary of Transportation for a license or transfer of a license under this chapter in the form and way the Secretary prescribes. Consistent with the public health and safety, safety of property, and national security and foreign policy interests of the United States, the Secretary, not later than 180 days after **[**receiving an application**]** *accepting an application in accordance with criteria established pursuant to subsection (b)(2)(D)*, shall issue or transfer a license if the Secretary decides in writing that the applicant complies, and will continue to comply, with this chapter and regulations prescribed under this chapter. The Secretary shall inform the applicant of any pending issue and action required to resolve the issue if the Secretary has not made a decision not later than 120 days after **[**receiving an application**]** *accepting an application in accordance with criteria established pursuant to subsection (b)(2)(D). The Secretary shall submit to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a written notice not later than 30 days after any occurrence when a license is not issued within the deadline established by this subsection.*

(2) In carrying out paragraph (1), the Secretary may establish procedures for safety approvals of launch vehicles, reentry vehicles, safety systems, processes, services, or personnel that may be used in conducting licensed commercial space launch or reentry activities.

(b) REQUIREMENTS.—(1) Except as provided in this subsection, all requirements of the laws of the United States applicable to the launch of a launch vehicle or the operation of a launch site *or a reentry site, or the reentry of a reentry vehicle,* are requirements for a license under this chapter.

(2) The Secretary may prescribe—

(A) any term necessary to ensure compliance with this chapter, including on-site verification that a launch **[**or operation**]***, operation, or reentry* complies with representations stated in the application;

(B) an additional requirement necessary to protect the public health and safety, safety of property, national security interests, and foreign policy interests of the United States; **[**and**]**

(C) by regulation that a requirement of a law of the United States not be a requirement for a license if the Secretary, after consulting with the head of the appropriate executive agency, decides that the requirement is not necessary to protect the public health and safety, safety of property, and national security and foreign policy interests of the United States**[**.**]***; and*

(D) regulations establishing criteria for accepting or rejecting an application for a license under this chapter within 60 days after receipt of such application.

(3) The Secretary may waive a requirement*, including the requirement to obtain a license,* for an individual applicant if the Sec-

retary decides that the waiver is in the public interest and will not jeopardize the public health and safety, safety of property, and national security and foreign policy interests of the United States.

(c) PROCEDURES AND TIMETABLES.—The Secretary shall establish procedures and timetables that expedite review of a license application and reduce the regulatory burden for an applicant.

§ 70106. Monitoring activities

(a) GENERAL REQUIREMENTS.—A licensee under this chapter must allow the Secretary of Transportation to place an officer or employee of the United States Government or another individual as an observer at a launch site *or reentry site* the licensee uses, at a production facility or assembly site a contractor of the licensee uses to produce or assemble a launch vehicle *or reentry vehicle*, or at a site at which a payload is integrated with a launch vehicle *or reentry vehicle*. The observer will monitor the activity of the licensee or contractor at the time and to the extent the Secretary considers reasonable to ensure compliance with the license or to carry out the duties of the Secretary under section 70104(c) of this title. A licensee must cooperate with an observer carrying out this subsection.

* * * * * * *

[§ 70108. Prohibition, suspension, and end of launches and operation of launch sites]

§ 70108. Prohibition, suspension, and end of launches, operation of launch sites and reentry sites, and reentries

(a) GENERAL AUTHORITY.—The Secretary of Transportation may prohibit, suspend, or end immediately the launch of a launch vehicle or the operation of a launch site *or reentry site, or reentry of a reentry vehicle,* licensed under this chapter if the Secretary decides the launch or operation *or reentry* is detrimental to the public health and safety, the safety of property, or a national security or foreign policy interest of the United States.

(b) EFFECTIVE PERIODS OF ORDERS.—An order under this section takes effect immediately and remains in effect during a review under section 70110 of this title.

[§ 70109. Preemption of scheduled launches]

§ 70109. Preemption of scheduled launches or reentries

(a) GENERAL.—With the cooperation of the Secretary of Defense and the Administrator of the National Aeronautics and Space Administration, the Secretary of Transportation shall act to ensure that a launch *or reentry* of a payload is not preempted from access to a United States Government launch site*, reentry site,* or launch property, except for imperative national need, when a launch date commitment *or reentry date commitment* from the Government has been obtained for a launch *or reentry* licensed under this chapter. A licensee or transferee preempted from access to a launch site*, reentry site,* or launch property does not have to pay the Government any amount for launch services*, or services related to a reentry,* at-

tributable only to the scheduled launch *or reentry* prevented by the preemption.

* * * * * * *

(c) REPORTS.—In cooperation with the Secretary of Transportation, the Secretary of Defense or the Administrator, as appropriate, shall submit to Congress not later than 7 days after a decision to preempt under subsection (a) of this section, a report that includes an explanation of the circumstances justifying the decision and a schedule for ensuring the prompt launching *or reentry* of a preempted payload.

§ 70110. Administrative hearings and judicial review

(a) ADMINISTRATIVE HEARINGS.—The Secretary of Transportation shall provide an opportunity for a hearing on the record to—

(1) an applicant under this chapter, for a decision of the Secretary under section 70105(a) of this title to issue or transfer a license with terms or deny the issuance or transfer of a license;

(2) an owner or operator of a payload under this chapter, for a decision of the Secretary under section 70104(c) of this title to prevent the launch *or reentry* of the payload; and

(3) a licensee under this chapter, for a decision of the Secretary under—

(A) section 70107 (b) or (c) of this title to modify, suspend, or revoke a license; or

(B) section 70108(a) of this title to prohibit, suspend, or end a launch or operation of a launch site *or reentry site, or reentry of a reentry vehicle,* licensed by the Secretary.

(b) JUDICIAL REVIEW.—A final action of the Secretary under this chapter is subject to judicial review as provided in chapter 7 of title 5.

§ 70111. Acquiring United States Government property and services

(a) GENERAL REQUIREMENTS AND CONSIDERATIONS.—(1) The Secretary of Transportation shall facilitate and encourage the acquisition by the private sector and State governments of—

(A) launch *or reentry* property of the United States Government that is excess or otherwise is not needed for public use; and

(B) launch services *and reentry services*, including utilities, of the Government otherwise not needed for public use.

The Secretary shall establish criteria and procedures for determining the priority of competing requests from the private sector and State governments for property and services under this section.

(2) In acting under paragraph (1) of this subsection, the Secretary shall consider the commercial availability on reasonable terms of substantially equivalent launch property or launch services *or reentry services* from a domestic source.

(b) PRICE.—(1) In this subsection, "direct costs" means the actual costs that—

(A) can be associated unambiguously with a commercial launch *or reentry* effort; and

(B) the Government would not incur if there were no commercial launch *or reentry* effort.

(2) In consultation with the Secretary, the head of the executive agency providing the property or service under subsection (a) of this section shall establish the price for the property or service. The price for—

(A) * * *

* * * * * * *

(C) launch services *or reentry services* is an amount equal to the direct costs, including the basic pay of Government civilian and contractor personnel, the Government incurred because of acquisition of the services.

(3) The Secretary shall ensure the establishment of uniform guidelines for, and consistent implementation of, this section by all Federal agencies.

* * * * * * *

(d) COLLECTION BY OTHER GOVERNMENTAL HEADS.—The head of a department, agency, or instrumentality of the Government may collect a payment for an activity involved in producing a launch vehicle [or its payload for launch] *or reentry vehicle, or the payload of either, for launch or reentry* if the activity was agreed to by the owner or manufacturer of the launch vehicle*, or reentry vehicle,* or payload.

§ 70112. Liability insurance and financial responsibility requirements

(a) GENERAL REQUIREMENTS.—(1) When a *launch or reentry* license is issued or transferred under this chapter, the licensee or transferee shall obtain liability insurance or demonstrate financial responsibility in amounts to compensate for the maximum probable loss from claims by—

(A) a third party for death, bodily injury, or property damage or loss resulting from an activity carried out under the license; and

(B) the United States Government against a person for damage or loss to Government property resulting from an activity carried out under the license.

* * * * * * *

(3) For the total claims related to one launch *or reentry*, a licensee or transferee is not required to obtain insurance or demonstrate financial responsibility of more than—

(A)(i) $500,000,000 under paragraph (1)(A) of this subsection; or

(ii) $100,000,000 under paragraph (1)(B) of this subsection; or

(B) the maximum liability insurance available on the world market at reasonable cost if the amount is less than the applicable amount in clause (A)(i) or (ii) of this paragraph.

(4) An insurance policy or demonstration of financial responsibility under this subsection shall protect the following, to the ex-

tent of their potential liability for involvement in launch services *or reentry services*, at no cost to the Government:

(A) the Government.

(B) executive agencies and personnel, contractors, and subcontractors of the Government.

(C) contractors, subcontractors, and customers of the licensee or transferee.

(D) contractors and subcontractors of the customer.

(b) RECIPROCAL WAIVER OF CLAIMS.—(1) A *launch or reentry* license issued or transferred under this chapter shall contain a provision requiring the licensee or transferee to make a reciprocal waiver of claims with its contractors, subcontractors, and customers, and contractors and subcontractors of the customers, involved in launch services *or reentry services* under which each party to the waiver agrees to be responsible for property damage or loss it sustains, or for personal injury to, death of, or property damage or loss sustained by its own employees resulting from an activity carried out under the *applicable* license.

(2) The Secretary of Transportation shall make, for the Government, executive agencies of the Government involved in launch services *or reentry services*, and contractors and subcontractors involved in launch services *or reentry services*, a reciprocal waiver of claims with the licensee or transferee, contractors, subcontractors, and customers of the licensee or transferee, and contractors and subcontractors of the customers, involved in launch services *or reentry services* under which each party to the waiver agrees to be responsible for property damage or loss it sustains, or for personal injury to, death of, or property damage or loss sustained by its own employees resulting from an activity carried out under the *applicable* license. The waiver applies only to the extent that claims are more than the amount of insurance or demonstration of financial responsibility required under subsection (a)(1)(B) of this section. After consulting with the Administrator and the Secretary of the Air Force, the Secretary of Transportation may waive, for the Government and a department, agency, and instrumentality of the Government, the right to recover damages for damage or loss to Government property to the extent insurance is not available because of a policy exclusion the Secretary of Transportation decides is usual for the type of insurance involved.

* * * * * * *

(d) ANNUAL REPORT.—(1) Not later than November 15 of each year, the Secretary of Transportation shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science[, Space, and Technology] of the House of Representatives a report on current determinations made under subsection (c) of this section related to all issued licenses and the reasons for the determinations.

* * * * * * *

(e) LAUNCHES *OR REENTRIES* INVOLVING GOVERNMENT FACILITIES AND PERSONNEL.—The Secretary of Transportation shall establish requirements consistent with this chapter for proof of financial responsibility and other assurances necessary to protect the Government and its executive agencies and personnel from liabil-

ity, death, bodily injury, or property damage or loss as a result of a launch or operation of a launch site *or reentry site or a reentry* involving a facility or personnel of the Government. The Secretary may not relieve the Government of liability under this subsection for death, bodily injury, or property damage or loss resulting from the willful misconduct of the Government or its agents.

(f) COLLECTION AND CREDITING PAYMENTS.—The head of a department, agency, or instrumentality of the Government shall collect a payment owed for damage or loss to Government property under its jurisdiction or control resulting from an activity carried out under a *launch or reentry* license issued or transferred under this chapter. The payment shall be credited to the current applicable appropriation, fund, or account of the department, agency, or instrumentality.

§ 70113. Paying claims exceeding liability insurance and financial responsibility requirements

(a) GENERAL REQUIREMENTS.—(1) To the extent provided in advance in an appropriation law or to the extent additional legislative authority is enacted providing for paying claims in a compensation plan submitted under subsection (d) of this section, the Secretary of Transportation shall provide for the payment by the United States Government of a successful claim (including reasonable litigation or settlement expenses) of a third party against a licensee or transferee under this chapter, a contractor, subcontractor, or customer of the licensee or transferee, or a contractor or subcontractor of a customer, resulting from an activity carried out under the license issued or transferred under this chapter for death, bodily injury, or property damage or loss resulting from an activity carried out under the license. However, claims may be paid under this section only to the extent the total amount of successful claims related to one launch *or reentry*—

(A) is more than the amount of insurance or demonstration of financial responsibility required under section 70112(a)(1)(A) of this title; and

(B) is not more than $1,500,000,000 (plus additional amounts necessary to reflect inflation occurring after January 1, 1989) above that insurance or financial responsibility amount.

* * * * * * *

(d) SURVEYS, REPORTS, AND COMPENSATION PLANS.—(1) If as a result of an activity carried out under a license issued or transferred under this chapter the total of claims related to one launch *or reentry* is likely to be more than the amount of required insurance or demonstration of financial responsibility, the Secretary shall—

(A) survey the causes and extent of damage; and

(B) submit expeditiously to Congress a report on the results of the survey.

(2) Not later than 90 days after a court determination indicates that the liability for the total of claims related to one launch *or reentry* may be more than the required amount of insurance or demonstration of financial responsibility, the President, on the rec-

ommendation of the Secretary, shall submit to Congress a compensation plan that—

(A) outlines the total dollar value of the claims;

(B) recommends sources of amounts to pay for the claims;

(C) includes legislative language required to carry out the plan if additional legislative authority is required; and

(D) for a single event or incident, may not be for more than $1,500,000,000.

* * * * * * *

§ 70115. Enforcement and penalty

(a) * * *

(b) GENERAL AUTHORITY.—(1) In carrying out this chapter, the Secretary of Transportation may—

(A) conduct investigations and inquiries;

(B) administer oaths;

(C) take affidavits; and

(D) under lawful process—

(i) enter at a reasonable time a launch site, *reentry site,* production facility, assembly site of a launch vehicle *or reentry vehicle*, or site at which a payload is integrated with a launch vehicle *or reentry vehicle* to inspect an object to which this chapter applies or a record or report the Secretary requires be made or kept under this chapter; and

(ii) seize the object, record, or report when there is probable cause to believe the object, record, or report was used, is being used, or likely will be used in violation of this chapter.

* * * * * * *

§ 70117. Relationship to other executive agencies, laws, and international obligations

(a) EXECUTIVE AGENCIES.—Except as provided in this chapter, a person is not required to obtain from an executive agency a license, approval, waiver, or exemption to launch a launch vehicle or operate a launch site *or reentry site, or to reenter a reentry vehicle*.

* * * * * * *

(d) CONSULTATION.—The Secretary of Transportation is encouraged to consult with a State to simplify and expedite the approval of a space launch *or reentry* activity.

* * * * * * *

[(f) LAUNCH NOT AN EXPORT.—A launch vehicle or payload that is launched is not, because of the launch, an export for purposes of a law controlling exports.**]**

(f) LAUNCH NOT AN EXPORT; REENTRY NOT AN IMPORT.—A launch vehicle, reentry vehicle, or payload that is launched or reentered is not, because of the launch or reentry, an export or import, respectively, for purposes of a law controlling exports or imports.

(g) NONAPPLICATION.—This chapter does not apply to—

(1) a launch, **[**operation of a launch vehicle or launch site,**]** *reentry, operation of a launch vehicle or reentry vehicle, oper-*

ation of a launch site or reentry site, or other space activity the Government carries out for the Government; or

(2) planning or policies related to the launch, *reentry,* operation, or activity.

* * * * * * *

§ 70120. Regulations

(a) IN GENERAL.—The Secretary of Transportation, within 9 months after the date of the enactment of this section, shall issue regulations to carry out this chapter that include—

(1) guidelines for industry and State governments to obtain sufficient insurance coverage for potential damages to third parties;

(2) procedures for requesting and obtaining licenses to launch a commercial launch vehicle;

(3) procedures for requesting and obtaining operator licenses for launch;

(4) procedures for requesting and obtaining launch site operator licenses; and

(5) procedures for the application of government indemnification.

(b) REENTRY.—The Secretary of Transportation, within 6 months after the date of the enactment of this section, shall issue a notice of proposed rulemaking to carry out this chapter that includes—

(1) procedures for requesting and obtaining licenses to reenter a reentry vehicle;

(2) procedures for requesting and obtaining operator licenses for reentry; and

(3) procedures for requesting and obtaining reentry site operator licenses.

§ 70121. Report to Congress

The Secretary of Transportation shall submit to Congress an annual report to accompany the President's budget request that—

(1) describes all activities undertaken under this chapter, including a description of the process for the application for and approval of licenses under this chapter and recommendations for legislation that may further commercial launches and reentries; and

(2) reviews the performance of the regulatory activities and the effectiveness of the Office of Commercial Space Transportation.

SECTION 504 OF THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AUTHORIZATION ACT, FISCAL YEAR 1993

SEC. 504. LAUNCH VOUCHER DEMONSTRATION PROGRAM.

(a) COMMERCIAL SPACE VOUCHER DEMONSTRATION PROGRAM; EFFECTIVE PERIOD.—The Administrator shall establish a demonstration program to award vouchers for the payment of commer-

cial launch services and payload integration services for the purpose of launching payloads funded by [the Office of Commercial Programs within] the National Aeronautics and Space Administration to become effective October 1, 1993. [Such program shall not be effective after September 30, 1995.]

* * * * * * *

[(c) ASSUMPTION OF CERTAIN RESPONSIBILITIES.—In carrying out the demonstration program established under subsection (a), the Administrator, in awarding vouchers, is limited to the launch of payloads funded by the Office of Commercial Programs within the National Aeronautics and Space Administration.]

[(d)] *(c)* ASSISTANCE.—The Administrator may provide voucher award recipients with such assistance, including contract formulation and technical support during the proposal evaluation, as may be necessary, to ensure the purchase of cost effective and reasonably reliable commercial launch services and payload integration services.

[(e)] *(d)* REPORT.—The Administrator shall conduct an ongoing review of the program established under this section, and shall, not later than January 31, 1995, report to Congress the results of such a review, together with recommendations for further action relating to the program.

LAND REMOTE SENSING POLICY ACT OF 1992

* * * * * * *

SEC. 2. FINDINGS.

The Congress finds and declares the following:

(1) * * *

* * * * * * *

[(5) Given the importance of the Landsat program to the United States, urgent actions, including expedited procurement procedures, are required to ensure data continuity.

[(6) Full commercialization of the Landsat program cannot be achieved within the foreseeable future, and thus should not serve as the near-term goal of national policy on land remote sensing; however, commercialization of land remote sensing should remain a long-term goal of United States policy.]

(5) Commercialization of land remote sensing is a near-term goal, and should remain a long-term goal, of United States policy.

[(7)] *(6)* Despite the success and importance of the Landsat system, funding and organizational uncertainties over the past several years have placed its future in doubt and have jeopardized United States leadership in land remote sensing.

[(8)] *(7)* Recognizing the importance of the Landsat program in helping to meet national and commercial objectives, the President approved, on February 11, 1992, a National Space Policy Directive which was developed by the National Space Council and commits the United States to ensuring the continuity of Landsat coverage into the 21st century.

[(9)] *(8)* Because Landsat data are particularly important for national security purposes and global environmental change research, management responsibilities for the program should be transferred from the Department of Commerce to an integrated program management involving the Department of Defense and the National Aeronautics and Space Administration.

[(10)] *(9)* Regardless of management responsibilities for the Landsat program, the Nation's broad civilian, national security, commercial, and foreign policy interests in remote sensing will best be served by ensuring that Landsat remains an unclassified program that operates according to the principles of open skies and nondiscriminatory access.

[(11)] *(10)* Technological advances aimed at reducing the size and weight of satellite systems hold the potential for dramatic reductions in the cost, and substantial improvements in the capabilities, of future land remote sensing systems, but such technological advances have not been demonstrated for land remote sensing and therefore cannot be relied upon as the sole means of achieving data continuity for the Landsat program.

[(12)] *(11)* A technology demonstration program involving advanced remote sensing technologies could serve a vital role in [determining the design of a follow-on spacecraft to Landsat 7, while also helping to determine whether such a spacecraft should be funded by the United States Government, by the private sector, or by an international consortium] *ensuring the continuity of Landsat quality data*.

[(13)] *(12)* To maximize the value of the Landsat program to the American public, unenhanced Landsat 4 through 6 data should be made available, at a minimum, to United States Government agencies, to global environmental change researchers, and to other researchers who are financially supported by the United States Government, at the cost of fulfilling user requests, and unenhanced Landsat 7 data should be made available to all users at the cost of fulfilling user requests.

[(14)] *(13)* To stimulate development of the commercial market for unenhanced data and value-added services, the United States Government should adopt a data policy for Landsat 7 which allows competition within the private sector for distribution of unenhanced data and value-added services.

[(15)] *(14)* Development of the remote sensing market and the provision of commercial value-added services based on remote sensing data should remain exclusively the function of the private sector.

[(16)] *(15)* It is in the best interest of the United States to maintain a permanent, comprehensive Government archive of global Landsat and other land remote sensing data for long-term monitoring and study of the changing global environment.

* * * * * * *

TITLE I—LANDSAT

SEC. 101. LANDSAT PROGRAM MANAGEMENT.

(a) * * *

(c) RESPONSIBILITIES.—The Landsat Program Management shall be responsible for—

(1) * * *

* * * * * * *

(6) oversight of Landsat contracts entered into under sections 102 and 103; *and*

[(7) coordination of a technology demonstration program, pursuant to section 303; and**]**

[(8)**]** *(7)* ensuring that copies of data acquired by the Landsat system are provided to the National Satellite Land Remote Sensing Data Archive.

* * * * * * *

(e) LANDSAT ADVISORY PROCESS.—

(1) ESTABLISHMENT.—The Landsat Program Management shall seek impartial advice and comments regarding the status, effectiveness, and operation of the Landsat system, using existing advisory committees and other appropriate mechanisms. Such advice shall be sought from individuals who represent—

(A) a broad range of perspectives on basic and applied science and operational needs with respect to land remote sensing data; *and*

(B) the full spectrum of users of Landsat data, including representatives from United States Government agencies, State and local government agencies, academic institutions, nonprofit organizations, value-added companies, the agricultural, mineral extraction, and other user industries, and the public**[**, and**]**.

[(C) a broad diversity of age groups, sexes, and races.**]**

* * * * * * *

TITLE II—LICENSING OF PRIVATE REMOTE SENSING SPACE SYSTEMS

SEC. 201. GENERAL LICENSING AUTHORITY.

(a) * * *

(b) COMPLIANCE WITH THE LAW, REGULATIONS, INTERNATIONAL OBLIGATIONS, AND NATIONAL SECURITY.—**[**No license shall be granted by the Secretary unless the Secretary determines in writing that the applicant will comply**]***(1) The Secretary shall grant a license if the Secretary determines that the activities proposed in the application are consistent* with the requirements of this Act, any regulations issued pursuant to this Act, and any applicable international obligations and national security concerns of the United States.

(2) The Secretary, within 6 months after the date of the enactment of the Commercial Space Act of 1997, shall publish in the Federal Register a complete and specific list of all information required to comprise a complete application for a license under this title. An

application shall be considered complete when the applicant has provided all information required by the list most recently published in the Federal Register before the date the application was first submitted. Unless the Secretary has, within 30 days after receipt of an application, notified the applicant of information necessary to complete an application, the Secretary may not deny the application on the basis of the absence of any such information.

(c) DEADLINE FOR ACTION ON APPLICATION.—The Secretary shall review any application and make a determination thereon within 120 days of the receipt of such application. [If final action has not occurred within such time, the Secretary shall inform the applicant of any pending issues and of actions required to resolve them.] *If the Secretary has not granted the license within such 120-day period, the Secretary shall inform the applicant, within such period, of any pending issues and actions required to be carried out by the applicant or the Secretary in order to result in the granting of a license.*

* * * * * * *

(e) REQUIREMENT TO PROVIDE UNENHANCED DATA.—(1) * * *

(2) The Secretary shall make a designation under paragraph (1) after determining that—

(A) * * *

(B) it is in the interest of the United States to require such data to be provided by the licensee consistent with section 202(b)(3), after considering the impact on the licensee [and the importance of promoting widespread access to remote sensing data from United States and foreign systems].

* * * * * * *

SEC. 202. CONDITIONS FOR OPERATION.

(a) * * *

(b) LICENSING REQUIREMENTS.—Any license issued pursuant to this title shall specify that the licensee shall comply with all of the requirements of this Act and shall—

(1) operate the system in such manner as to preserve the national security of the United States and to observe the international obligations of the United States in accordance with section [506] *507*;

(2) make available to the government of any country (including the United States) unenhanced data collected by the system concerning the territory under the jurisdiction of such government [as soon as such data are available and on reasonable terms and conditions] *on reasonable terms and conditions, including the provision of such data in a timely manner*;

* * * * * * *

(6) notify the Secretary of [any agreement] *any significant or substantial agreement relating to land remote sensing* the licensee intends to enter with a foreign nation, entity, or consortium involving foreign nations or entities.

The Secretary may not seek to enjoin a company from entering into a foreign agreement the Secretary receives notification of under paragraph (6) unless the Secretary has, within 30 days after receipt of such notification, transmitted to the licensee a statement that

such agreement is inconsistent with the national security or international obligations of the United States, including an explanation of such inconsistency.

* * * * * * *

SEC. 203. ADMINISTRATIVE AUTHORITY OF THE SECRETARY.

(a) FUNCTIONS.—In order to carry out the responsibilities specified in this title, the Secretary may—

(1) grant, condition, or transfer licenses under this Act;

(2) seek an order of injunction or similar judicial determination from a United States District Court with personal jurisdiction over the licensee to terminate, modify, or suspend licenses [under this title and] *under this title and/or* to terminate licensed operations on an immediate basis, if the Secretary determines that the licensee has substantially failed to comply with any provisions of this Act, with any terms, conditions, or restrictions of such license, or with any international obligations or national security concerns of the United States.

* * * * * * *

SEC. 204. REGULATORY AUTHORITY OF THE SECRETARY.

The Secretary [may] *shall* issue regulations to carry out this title. Such regulations shall be promulgated only after public notice and comment in accordance with the provisions of section 553 of title 5, United States Code.

SEC. 205. AGENCY ACTIVITIES.

(a) * * *

* * * * * * *

(c) AGREEMENTS.—To the extent provided in advance by appropriation Acts, any United States Government agency may enter into agreements for such utilization if such agreements are consistent with such agency's mission and statutory authority, and [if such remote sensing space system is licensed by the Secretary before commencing operation] *if such private remote sensing space system will be licensed by the Secretary before commencing its commercial operation*.

* * * * * * *

SEC. 206. NOTIFICATION.

(a) LIMITATIONS ON LICENSEE.—Not later than 30 days after a determination by the Secretary to require a licensee to limit collection or distribution of data from a system licensed under this title, the Secretary shall provide written notification to Congress of such determination, including the reasons therefor, the limitations imposed on the licensee, and the period during which such limitations apply.

(b) TERMINATION, MODIFICATION, OR SUSPENSION.—Not later than 30 days after an action by the Secretary to seek an order of injunction or other judicial determination pursuant to section 202(b) or section 203(a)(2), the Secretary shall provide written notification to Congress of such action and the reasons therefor.

TITLE III—RESEARCH, DEVELOPMENT, AND DEMONSTRATION

SEC. 301. CONTINUED FEDERAL RESEARCH AND DEVELOPMENT.

(a) ROLES OF NASA AND DEPARTMENT OF DEFENSE.—(1) The Administrator and the Secretary of Defense are directed to continue and to enhance programs of remote sensing research and development.

(2) The Administrator is authorized and encouraged to—

(A) conduct experimental space remote sensing programs (including applications demonstration programs and basic research at universities);

(B) develop remote sensing technologies and techniques, including those needed for monitoring the Earth and its environment*, that are not being commercially developed*; and

* * * * * * *

(d) DUPLICATION OF COMMERCIAL SECTOR ACTIVITIES.—The Federal Government shall not undertake activities under this section which duplicate activities available from the United States commercial sector, unless such activities would result in significant cost savings to the Federal Government, or are necessary for reasons of national security or international obligations.

SEC. 302. AVAILABILITY OF FEDERALLY GATHERED UNENHANCED DATA.

[(a) GENERAL RULE.—**]**All unenhanced land remote sensing data gathered and owned by the United States Government**[**, including unenhanced data gathered under the technology demonstration program carried out pursuant to section 303,**]** *that is not otherwise available from the commercial sector* shall be made available to users in a timely fashion.

[(b) PROTECTION FOR COMMERCIAL DATA DISTRIBUTOR.—The President shall seek to ensure that unenhanced data gathered under the technology demonstration program carried out pursuant to section 303 shall, to the extent practicable, be made available on terms that would not adversely effect the commercial market for unenhanced data gathered by the Landsat 6 spacecraft.

[SEC. 303. TECHNOLOGY DEMONSTRATION PROGRAM.

[(a) ESTABLISHMENT.—As a fundamental component of a national land remote sensing strategy, the President shall establish, through appropriate United States Government agencies, a technology demonstration program. The goals of such programs shall be to—

[(1) seek to launch advanced land remote sensing system components within 5 years after the date of the enactment of this Act.

[(2) demonstrate within such 5-year period advanced sensor capabilities suitable for use in the anticipated land remote sensing program; and

[(3) demonstrate within such 5-year period an advanced land remote sensing system design that could be less expensive to procure and operate than the Landsat system projected to be in operation through the year 2000, and that therefore holds greater potential for private sector investment and control.

[(b) EXECUTION OF PROGRAM.—In executing the technology demonstration program, the President shall seek to apply technologies associated with United States National Technical Means of intelligence gathering, to the extent that such technologies are appropriate for the technology demonstration and can be declassified for such purposes without causing adverse harm to United States national security interests.

[(c) BROAD APPLICATION.—To the greatest extent practicable, the technology demonstration program established under subsection (a) shall be designed to be responsive to the broad civilian, national security, commercial, and foreign policy needs of the United States.

[(d) PRIVATE SECTOR FUNDING.—The technology demonstration program under this section may be carried out in part with private sector funding.

[(e) LANDSAT PROGRAM MANAGEMENT COORDINATION.—The Landsat Program Management shall have a coordinating role in the technology demonstration program carried out under this section.

[(f) REPORT TO CONGRESS.—The President shall assess the progress of the technology demonstration program under this section and, within 2 years after the date of enactment of this Act, submit a report to the Congress on such progress.]

* * * * * * *

TITLE IV—ASSESSING OPTIONS FOR SUCCESSOR LAND REMOTE SENSING SYSTEM

SEC. 401. ASSESSING OPTIONS FOR SUCCESSOR LAND REMOTE SENSING SYSTEM.

(a) * * *

(b) GOALS.—In carrying out subsection (a), the Landsat Program Management shall consider the ability of each of the options to—

(1) * * *

* * * * * * *

(3) incorporate system enhancements[, including any such enhancements developed under the technology demonstration program under section 303,] which may potentially yield a system that is less expensive to build and operate, and more responsive to data users, than is the Landsat system projected to be in operation through the year 2000.

* * * * * * *

TITLE V—GENERAL PROVISIONS

SEC. 501. NONDISCRIMINATORY DATA AVAILABILITY.

(a) GENERAL RULE.—Except as provided in subsection (b) of this section, any unenhanced data generated by the Landsat system or any other land remote sensing system funded and owned by the United States Government shall be made available to all users without preference, bias, or any other special arrangement (except on the basis of national security concerns pursuant to section [506] *507*) regarding delivery, format, pricing, or technical consid-

erations which would favor one customer or class of customers over another.

* * * * * * *

SEC. 502. ARCHIVING OF DATA.

(a) * * *

* * * * * * *

(c) DETERMINATION OF CONTENT OF BASIC DATA SET.—In determining the initial content of, or in upgrading, the basic data set, the Secretary of Interior shall—

(1) * * *

* * * * * * *

(7) ensure that the content of the archive is developed in accordance with section [506] *507*.

* * * * * * *

SEC. 507. CONSULTATION.

[(a) CONSULTATION WITH SECRETARY OF DEFENSE.—The Secretary and the Landsat Program Management shall consult with the Secretary of Defense on all matters under this Act affecting national security. The Secretary of Defense shall be responsible for determining those conditions, consistent with this Act, necessary to meet national security concerns of the United States and for notifying the Secretary and the Landsat Program Management promptly of such conditions.

[(b) CONSULTATION WITH SECRETARY OF STATE.—(1) The Secretary and the Landsat Program Management shall consult with the Secretary of State on all matters under this Act affecting international obligations. The Secretary of State shall be responsible for determining those conditions, consistent with this Act, necessary to meet international obligations and policies of the United States and for notifying promptly the Secretary and the Landsat Program Management of such conditions.

[(2) Appropriate United States Government agencies are authorized and encouraged to provide remote sensing data, technology, and training to developing nations as a component of programs of international aid.]

(a) RESPONSIBILITY OF THE SECRETARY OF DEFENSE.—The Secretary shall consult with the Secretary of Defense on all matters under title II affecting national security. The Secretary of Defense shall be responsible for determining those conditions, consistent with this Act, necessary to meet national security concerns of the United States, and for notifying the Secretary promptly of such conditions. Not later than 180 days after the date of the enactment of the Commercial Space Act of 1997, the Secretary of Defense shall publish in Commerce Business Daily, for the purpose of soliciting comments, notice of all national security concerns that pertain to the licensing of private remote sensing space systems. Not later than 60 days after receiving a request from the Secretary, the Secretary of Defense shall notify the Secretary and the licensee of, and describe in detail, any specific national security concerns of the United States that the Secretary of Defense determines are an appropriate reason for delaying, modifying, or rejecting a license application.

The Secretary of Defense shall concurrently recommend to the Secretary any conditions for a license issued under title II, consistent with this Act, that the Secretary of Defense considers necessary to secure the national security concerns of the United States. If no such notification has been received by the Secretary within such 60-day period, the Secretary shall deem activities proposed in the license application to be consistent with the protection of the national security of the United States.

(b) RESPONSIBILITY OF THE SECRETARY OF STATE.—(1) The Secretary shall consult with the Secretary of State on all matters under title II affecting international obligations of the United States. The Secretary of State shall be responsible for determining those conditions, consistent with this Act, necessary to meet international obligations of the United States and for notifying the Secretary promptly of such conditions. Not later than 180 days after the date of the enactment of the Commercial Space Act of 1997, the Secretary of State shall publish in Commerce Business Daily, for the purpose of soliciting comments, notice of all international obligations of the United States that pertain to the licensing of private remote sensing space systems. Not later than 60 days after receiving a request from the Secretary, the Secretary of State shall notify the Secretary and the licensee of, and describe in detail, any specific international obligations of the United States that the Secretary of State determines are an appropriate reason for delaying, modifying, or rejecting a license application. The Secretary of State shall concurrently recommend to the Secretary any conditions for a license issued under title II, consistent with this Act, that the Secretary of State considers necessary to secure the international obligations of the United States. If no such notification has been received by the Secretary within such 60-day period, the Secretary shall deem activities proposed in the license application to be consistent with the international obligations of the United States.

(2) Appropriate United States Government agencies are authorized and encouraged to provide to developing nations, as a component of international aid, resources for purchasing remote sensing data, training, and analysis from commercial providers.

* * * * * * *

(d) REIMBURSEMENTS.—If, as a result of technical modifications imposed on a licensee under title II on the basis of national security concerns, the Secretary, in consultation with the Secretary of Defense or with other Federal agencies, determines that additional costs will be incurred by the licensee, or that past development costs (including the cost of capital) will not be recovered by the licensee, the **[**Secretary may require**]** *Secretary shall, where appropriate, require* the agency or agencies requesting such technical modifications to reimburse the licensee for such additional or development costs, but not for anticipated profits. Reimbursements may cover costs associated with required changes in system performance, but not costs ordinarily associated with doing business abroad.

* * * * * * *

TITLE II—LAUNCH SERVICES PURCHASE

SEC. 201. SHORT TITLE.

This title may be cited as the "Launch Services Purchase Act of 1990".

[SEC. 202. FINDINGS.

[The Congress finds that—

[(1) the United States commercial launch industry is technically capable of providing reliable and cost efficient access to space and is an essential component of national efforts to assure access to space for Government and commercial users;

[(2) the Federal Government should encourage, facilitate, and promote the United States commercial launch industry, including the development and enhancement of commercial launch facilities, in order to ensure United States economic preeminence in space;

[(3) the interests of the United States will be served if the commercial launch industry is competitive in the international marketplace;

[(4) commercial vehicles are effective means to challenge foreign competition;

[(5) the use by the Federal Government of performance specifically in lieu of detailed specifications relating to vehicle design, construction, and operation will facilitate the efficient operation of the United States commercial launch industry;

[(6) the procurement of commercial launch services in a commercially reasonable manner permits a reduced level of Federal Government regulation and oversight and economies of scale which may result in significant cost savings to the commercial launch industry and to the United States.

[(7) it is the general policy of the Federal Government to purchase needed goods and services, including launch services, from the private sector to the fullest extent feasible; and

[(8) predictable access to National Aeronautics and Space Administration launch markets would encourage continuing United States private sector investment in space and related activities.]

SEC. 203. DEFINITIONS.

For the purposes of this title—

[(1) the term "commercial provider" means any person providing launch services, but does not include the Federal Government;

[(2) the term "launch services" means activities involved in the preparation of a launch vehicle and its payload for space transport and the conduct of transporting a payload;]

[(3)] *(1)* the term "launch vehicle" means any vehicle constructed for the purpose of operating in, or placing a payload in, outer space; and

[(4)] *(2)* the term "payload" means an object which a person undertakes to place in outer space by means of a launch vehicle, and includes subcomponents of the launch vehicle specifically designed or adapted for that object.

[SEC. 204. REQUIREMENT TO PROCURE COMMERCIAL LAUNCH SERVICES.

[(a) IN GENERAL.—Except as otherwise provided in this section, the National Aeronautics and Space Administration shall purchase launch services for its primary payloads from commercial providers whenever such services are required in the course of its activities.

[(b) EXCEPTIONS.—The National Aeronautics and Space Administration shall not be required to purchase launch services as provided in subsection (a) if, on a case by case basis the Administrator of the National Aeronautics and Space Administration determines that—

[(1) the payload requires the unique capabilities of the space shuttle;

[(2) cost effective commercial launch services to meet specific mission requirements are not reasonably available and would not be available when required;

[(3) the use of commercial launch services poses an unacceptable risk of loss of a unique scientific opportunity; or

[(4) the payload serves national security or foreign policy purposes.

Upon any such determination, the Administrator shall, within 30 days, notify in writing the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate of the determination and its rationale.

[(c) NATIONAL AERONAUTICS AND SPACE ADMINISTRATION LAUNCH VEHICLES.—Launch vehicles shall be acquired or owned by the National Aeronautics and Space Administration only—

[(1) as required under circumstances described in subsection (b); or

[(2) by the National Aeronautics and Space Administration for conducting research and development on, and testing of, launch technology.

[(d) PHASE-IN PERIOD.—Subsections (a) and (c) shall not apply to launch services and launch vehicles purchased by the National Aeronautics and Space Administration before the date of enactment of this Act.

[(e) HISTORICAL PURPOSES.—This title shall not be interpreted to prohibit the National Aeronautics and Space Administration from acquiring, owning, or maintaining launch vehicles solely for historical display purposes.

[SEC. 205. PURCHASE OF LAUNCH SERVICES.

[(a) FULL AND OPEN COMPETITION.—(1) Contracts to provide launch services to the National Aeronautics and Space Administration under section 204 shall be awarded on the basis of full, fair, and open competition, consistent with section 2304 of title 10, United States Code, and section 311 of the National Aeronautics and Space Act of 1958.

[(2) The National Aeronautics and Space Administration shall limit its requirements for submission of cost or pricing data in support of a bid or proposal to that data which is reasonably required to protect the interests of the United States.

[(b) SPECIFICATION SYSTEMS.—Reasonable performance specifications, not detailed Government design or construction specifications, shall be used to the maximum extent feasible to define requirements for a commercial provider bidding to provide launch services. This subsection shall not preclude the National Aeronautics and Space Administration from requiring compliance with applicable safety standards.]

SEC. 206. OTHER ACTIVITIES OF THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.

[(a) COMMERCIAL PAYLOADS ON THE SPACE SHUTTLE.—] Commercial payloads may not be accepted for launch as primary payloads on the space shuttle unless the Administrator of the National Aeronautics and Space Administration determines that—

(1) the payload requires the unique capabilities of the space shuttle; or

(2) launching of the payload on the space shuttle is important for either national security or foreign policy purposes.

[(b) REPORT.—By March 15, 1991, the Administrator, in consultation with the Office of Federal Procurement Policy, shall submit to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report outlining the minimal requirements for documentation and other administrative data needed to procure launch services in a commercially reasonable manner, including—

[(1) the need for data to integrate a payload with a launch vehicle;

[(2) the need for data to carry out mission-specific modifications to the launch vehicle;

[(3) the need for notification to the National Aeronautics and Space Administration of changes, delays, or difficulties in the construction or preparation of a launch vehicle that may affect the delivery of its payload to its destination at the time and under the conditions provided for under the contract between the United States and its contractors;

[(4) the need for data to protect public health and safety; and

[(5) the need for cost or pricing data for the fulfillment of a contract.]

XVII. COMMITTEE RECOMMENDATIONS

On June 18, 1997, a quorum being present, the Committee favorably reported the Commercial Space Act, as amended, by a voice vote, and recommends its enactment.

XVIII. PROCEEDINGS OF SUBCOMMITTEE MARKUP

SUBCOMMITTEE MARKUP OF H.R. 1702—THE COMMERCIAL SPACE ACT OF 1997

THURSDAY, JUNE 12, 1997

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON SCIENCE,
SUBCOMMITTEE ON SPACE AND AERONAUTICS,
Washington, DC.

The Subcommittee convened at 10:08 a.m. in room 2318 of the Rayburn House Office Building, Hon. Dana Rohrabacher, Chairman of the Subcommittee, presiding.

Members present: Representatives Rohrabacher, Cramer, Bartlett, Davis, Sensenbrenner, Hastings, Weldon (FL), Luther, Capps, Cook, Calvert, Salmon, Brady, Nethercutt, Jr., Hall, Luther, Lofgren, Lampson and Gordon.

Staff present: Bill Buckey, Eric Sterner and Rich Stombres.

Chairman ROHRABACHER. Good morning. Pursuant to notice, the Subcommittee on Space and Aeronautics is meeting today to consider H.R. 1702, the Commercial Space Act of 1997.

Because the House is in session, and we may have to vote, I ask for unanimous consent for the authority to recess at any time. Thank you very much.

I am pleased today to bring before the Subcommittee for legislative markup bipartisan legislation to promote U.S. leadership in the commercial development of the space frontier. H.R. 1702 is a measured and considered bill based on legislation passed by the House last year under suspension. I congratulate Chairman Sensenbrenner and Ranking Member Brown for bringing it forward so quickly in this session.

To summarize the Space Commercialization Act of 1997, it does three things:

First, it promotes new commercial space opportunities relating to the International Space Station, reasonable space vehicles, space-based navigation and space science data collection.

Second, it streamlines the regulation of the emerging commercial remote sensing industry which, as we learned in our hearings, is a potentially multi-billion dollar export industry for America.

Finally, it requires the Federal Government to purchase commercial space transportation services wherever possible instead of building and operating launch vehicles itself.

Today we begin to move this bill forward toward what I hope will be a Presidential signature by the end of this calendar year. That

is an aggressive schedule, but I believe if we work closely with our Senate colleagues and the Administration we can achieve it.

Now I would recognize Mr. Cramer.

Chairman Sensenbrenner, would you like to say some words first?

Chairman SENSENBRENNER. Mr. Chairman, you have done a good job and I'm watching.

Chairman ROHRABACHER. Thank you very much, Mr. Chairman. Mr. Cramer.

Mr. CRAMER. Thank you, Mr. Chairman. I'm glad we can move on with this markup. I thought after yesterday we might not get this opportunity. This is a good bill, H.R. 1702, the Commercial Space Act of 1997. I've appreciated the bipartisan approach to this bill in the hearings that we've been able to have. I thought they were very, very good hearings.

I've co-sponsored H.R. 1702 which continues Congress' long-standing tradition of promoting the development of a healthy and robust commercial space sector. The bipartisan tradition has been reflected in the passage of a series of important legislative initiatives in the past, including the Land Remote Sensing Commercialization Act of 1984, the Land Remote Sensing Policy Act of 1992, the Commercial Space Launch Act, the Commercial Space Launch Act Amendments of 1988 and the Launch Services Purchase Act of 1990.

I think those Acts have played an important role in fostering the growth of the commercial remote sensing and commercial launch service industries and have certainly benefited the Nation's economy as a whole.

I think we all agree that space is not just a frontier for research and exploration, it is also a frontier for commercial activity and we need only look at the explosive growth of the satellite communications industry of the past 3 decades to realize the truth of that statement. I believe that we may be on the verge of a similar explosion of growth in the commercial remote sensing industry as well as commercial applications of the GPS System.

H.R. 1702 is not a perfect bill. Indeed, we will offer several amendments, and I think my colleague, Mr. Hastings from Florida will offer an amendment that will improve the bill. Those amendments are intended to ensure that the Nation's legitimate national security concerns and international obligations are protected as we work to promote the growth of commercial remote sensing. So I look forward to this markup, Mr. Chairman.

[The prepared statement of Mr. Cramer follows:]

OPENING STATEMENT

BY

HON. ROBERT E. "BUD" CRAMER, JR.

JUNE 11, 1997

Good afternoon. As the Chairman has indicated, we are here this afternoon to mark up H.R. 1702, the Commercial Space Act of 1997. H.R. 1702, which I have cosponsored, continues Congress's long-standing tradition of promoting the development of a healthy and robust commercial space sector.

This bipartisan tradition has been reflected in the passage of a series of important legislative initiatives, including the

—"Land Remote Sensing Commercialization Act of 1984,"
—"Land Remote Sensing Policy Act of 1992,"
—"Commercial Space Launch Act,"
—"Commercial Space Launch Act Amendments of 1988," and the
—"Launch Services Purchase Act of 1990."

These Acts have played an important role in fostering the growth of the commercial remote sensing and commercial launch services industries, and have certainly benefited the Nation's economy as a whole.

I think that we can all agree that space is not just a frontier for research and exploration—it is also a frontier for commercial activity. We need only look at the explosive growth of the satellite communications industry over the past 3 decades to realize the truth of that statement. I believe that we may be on the verge of a similar explosion of growth in the commercial remote sensing industry, as well as in commercial applications of the Global Positioning System.

It is clear from all of these examples that the Federal Government's investments in space technology and systems have provided the private sector with impressive capabilities that can be exploited to benefit both our citizens and the economy as a whole. It is now the private sector's challenge to make commercial space activities earn profits—government cannot and should not guarantee success.

However, the Federal Government *can* provide a stable and supportive policy environment for commercial space activities. That has been the goal of previous commercial space legislation, and I believe that is also the goal of H.R. 1702.

Of course, H.R. 1702 is not a perfect bill. Indeed, Chairman Rohrabacher and I will offer several amendments today that we believe will improve the bill. They are intended to ensure that the Nation's legitimate national security concerns and international obligations are protected as we work to promote the growth of commercial remote sensing. And we intend to work with the Administration as it considers the bill to ensure that H.R. 1702 is a constructive legislative step forward in our mutual effort to ensure a vital and healthy commercial space sector.

Mr. Chairman, I look forward to a productive markup.

Thank you.

Chairman ROHRABACHER. Thank you very much, Mr. Cramer.

The Chair asks other members if they would be willing to submit their opening statements for the record so we can proceed directly with amendments.

Without objection, all other statements will be included in the record at this point.

I ask for unanimous consent that H.R. 1702 be considered as read and open to amendment at any point.

Without objection, so ordered.

[A section-by-section analysis of H.R. 1702 and the text of the bill follow:]

H.R. 1702, COMMERCIAL SPACE ACT OF 1997
AS INTRODUCED

SECTION-BY-SECTION ANALYSIS

SECTION 1 SHORT TITLE
SECTION 2 DEFINITIONS

TITLE I PROMOTION OF COMMERCIAL SPACE OPPORTUNITIES

SECTION 101 COMMERCIALIZATION OF SPACE STATION – Requires a report from NASA that identifies and examines the opportunities for commercial ventures to play a role in Space Station activities; the potential cost savings from using commercial ventures; and the policies that the NASA Administrator is advancing to encourage commercial opportunities.
SECTION 102 COMMERCIAL SPACE LAUNCH AMENDMENTS – Gives the Office of Commercial Space Transportation authority to license reentry activities; requires the Secretary of Transportation to issue regulations related to obtaining a license; and requires the Secretary of Transportation to submit an annual report on (1) the licensing activities for space transportation vehicles and (2) the performance of the Office of Commercial Space Transportation.
SECTION 103 LAUNCH VOUCHER DEMONSTRATION PROGRAM – Section 504 of the FY93 National Aeronautics and Space Administration Act (P.L. 102-588) is amended by striking out outdated references to dates and offices.
SECTION 104 PROMOTION OF UNITED STATES GLOBAL POSITIONING SYSTEM STANDARDS – Reaffirms U.S. policy to make the U.S. Global Positioning System (GPS) the world standard and to continue the operation of GPS on a continuous worldwide basis, free of direct user fees.
SECTION 105 ACQUISITION OF SPACE SCIENCE DATA – Encourages NASA to buy space science data from commercial providers. "Space science data" includes scientific data concerning the elemental and mineralogical resources of the moon, asteroids, planets and their moons, and comets.

TITLE II - REMOTE SENSING

SECTION 201 LAND REMOTE SENSING POLICY ACT OF 1992 AMENDMENTS – Updates the Land Remote Sensing Policy Act of 1992 (15 U.S.C. 5601 et seq.). Directs the Office of Science and Technology Policy to submit to Congress the Landsat Management Plan. Requires the Secretary of Commerce to publish a list of requirements for applicants seeking a license to own and operate a remote sensing satellite. Creates a presumption of approval for license applications that comply with title requirements. Prevents the Secretary of Commerce from seeking to enjoin a licensee from entering into a foreign agreement unless the Secretary first transmits a determination to the licensee that such participation is inconsistent with national security or international obligations. Requires the Secretary of Commerce to notify Congress of any action to limit collection or distribution of data. Requires the Secretary to report to Congress any injunctions that it seeks against a U.S. commercial provider. Prohibits the federal government from duplicating U.S. commercial provider activities unless significant savings can be realized.

Requires the Secretaries of Defense and State to consult with the Secretary of Commerce regarding license applications and determine whether such applications are consistent with U.S. national security interests and international obligations. Treats the absence of objection from either the Secretary of Defense or State to a license application as confirmation that the application is consistent with U.S national security and international obligations within a specific time period. Encourages the U.S. government to consider providing vouchers for use of U.S. commercial remote sensing services and products to developing nations as a component of U.S. international aid programs.

SECTION 202 ACQUISITION OF EARTH SCIENCE DATA – Encourages NASA to buy Earth remote sensing data from commercial providers and requires a study on how scientific requirements of MTPE can be met by commercial providers.

TITLE III FEDERAL ACQUISITION OF SPACE TRANSPORTATION SERVICES

SECTION 301 REQUIREMENT TO PROCURE COMMERCIAL SPACE TRANSPORTATION SERVICES – Requires the federal government to procure space transportation services from U.S. commercial providers and, to the maximum practicable extent, plan missions to accommodate the space transportation capabilities of U.S. commercial providers. Exceptions to this policy: the payload requires the unique capabilities of the Space Shuttle; U.S. commercial providers cannot provide cost-effective space transportation services when required; the use of space transportation services from U.S. commercial providers poses an unacceptable risk of loss of a unique scientific opportunity; the use of space transportation services from U.S. commercial providers is inconsistent with U.S. national security objectives; it is more cost-effective to launch a payload in conjunction with the test or demonstration of a space transportation vehicle owned by the federal government; or a payload can make use of the available cargo space on a Space Shuttle mission as a secondary payload, and such payload is consistent with specific requirements authorized by the Administrator. Directs only the Secretary of the Air Force or the NASA Administrator to make determinations about when an exception shall be granted. Does not apply to space transportation services and vehicles acquired or owned by the federal government before the enactment date or to contracts for such acquisition or ownership that have been entered into prior to the enactment date.

SECTION 302 ACQUISITION OF SPACE TRANSPORTATION SERVICES – Space transportation services are to be considered a "commercial item" for purposes of acquisition laws and regulations.

SECTION 303 LAUNCH SERVICES PURCHASE ACT OF 1990 AMENDMENTS – Updates the Launch Services Purchase Act of 1990.

I

105TH CONGRESS
1ST SESSION

H. R. 1702

To encourage the development of a commercial space industry in the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 22, 1997

Mr. SENSENBRENNER (for himself, Mr. ROHRABACHER, Mr. BROWN of California, Mr. CRAMER, and Ms. JACKSON-LEE of Texas) introduced the following bill; which was referred to the Committee on Science

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A BILL

To encourage the development of a commercial space industry in the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Commercial Space Act of 1997".

(b) TABLE OF CONTENTS.—

SEC. 2. DEFINITIONS.

For purposes of this Act—

(1) the term "Administrator" means the Administrator of the National Aeronautics and Space Administration;

(2) the term "commercial provider" means any person providing space transportation services or other space-related activities, primary control of which is held by persons other than Federal, State, local, and foreign governments;

(3) the term "payload" means anything that a person undertakes to transport to, from, or within outer space, or in suborbital trajectory, by means of a space transportation vehicle, but does not include the space transportation vehicle itself except for its components which are specifically designed or adapted for that payload;

(4) the term "space-related activities" includes research and development, manufacturing, process-

ing, service, and other associated and support activities;

(5) the term "space transportation services" means the preparation of a space transportation vehicle and its payloads for transportation to, from, or within outer space, or in suborbital trajectory, and the conduct of transporting a payload to, from, or within outer space, or in suborbital trajectory;

(6) the term "space transportation vehicle" means any vehicle constructed for the purpose of operating in, or transporting a payload to, from, or within, outer space, or in suborbital trajectory, and includes any component of such vehicle not specifically designed or adapted for a payload;

(7) the term "State" means each of the several States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other commonwealth, territory, or possession of the United States; and

(8) the term "United States commercial provider" means a commercial provider, organized under the laws of the United States or of a State, which is—

(A) more than 50 percent owned by United States nationals; or

(B) a subsidiary of a foreign company and the Secretary of Transportation finds that—

(i) such subsidiary has in the past evidenced a substantial commitment to the United States market through—

(I) investments in the United States in long-term research, development, and manufacturing (including the manufacture of major components and subassemblies); and

(II) significant contributions to employment in the United States; and

(ii) the country or countries in which such foreign company is incorporated or organized, and, if appropriate, in which it principally conducts its business, affords reciprocal treatment to companies described in subparagraph (A) comparable to that afforded to such foreign company's subsidiary in the United States, as evidenced by—

(I) providing comparable opportunities for companies described in

subparagraph (A) to participate in Government sponsored research and development similar to that authorized under this Act;

(II) providing no barriers, to companies described in subparagraph (A) with respect to local investment opportunities, that are not provided to foreign companies in the United States; and

(III) providing adequate and effective protection for the intellectual property rights of companies described in subparagraph (A).

TITLE I—PROMOTION OF COMMERCIAL SPACE OPPORTUNITIES

SEC. 101. COMMERCIALIZATION OF SPACE STATION.

(a) POLICY.—The Congress declares that a priority goal of constructing the International Space Station is the economic development of Earth orbital space. The Congress further declares that free and competitive markets create the most efficient conditions for promoting economic development, and should therefore govern the economic development of Earth orbital space. The Congress

further declares that the use of free market principles in operating, servicing, allocating the use of, and adding capabilities to the Space Station, and the resulting fullest possible engagement of commercial providers and participation of commercial users, will reduce Space Station operational costs for all partners and the Federal Government's share of the United States burden to fund operations.

(b) REPORTS.—(1) The Administrator shall deliver to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, within 90 days after the date of the enactment of this Act, a study that identifies and examines—

(A) the opportunities for commercial providers to play a role in International Space Station activities, including operation, use, servicing, and augmentation;

(B) the potential cost savings to be derived from commercial providers playing a role in each of these activities;

(C) which of the opportunities described in subparagraph (A) the Administrator plans to make available to commercial providers in fiscal year 1998 and 1999;

(D) the specific policies and initiatives the Administrator is advancing to encourage and facilitate these commercial opportunities; and

(E) the revenues and cost reimbursements to the Federal Government from commercial users of the Space Station.

(2) The Administrator shall deliver to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, within 180 days after the date of the enactment of this Act, an independently-conducted market study that examines and evaluates potential industry interest in providing commercial goods and services for the operation, servicing, and augmentation of the International Space Station, and in the commercial use of the International Space Station. This study shall also include updates to the cost savings and revenue estimates made in the study described in paragraph (1) based on the external market assessment.

(3) The Administrator shall deliver to the Congress, no later than the submission of the President's annual budget request for fiscal year 1999, a report detailing how many proposals (whether solicited or not) the National Aeronautics and Space Administration received during calendar year 1997 regarding commercial operation, serv-

icing, utilization, or augmentation of the International Space Station, broken down by each of these four categories, and specifying how many agreements the National Aeronautics and Space Administration has entered into in response to these proposals, also broken down by these four categories.

SEC. 102. COMMERCIAL SPACE LAUNCH AMENDMENTS.

(a) AMENDMENTS.—Chapter 701 of title 49, United States Code, is amended—

(1) in the table of sections—

(A) by amending the item relating to section 70104 to read as follows:

"70104. Restrictions on launches, operations, and reentries.";

(B) by amending the item relating to section 70108 to read as follows:

"70108. Prohibition, suspension, and end of launches, operation of launch sites and reentry sites, and reentries.";

(C) by amending the item relating to section 70109 to read as follows:

"70109. Preemption of scheduled launches or reentries.";

and

(D) by adding at the end the following new items:

"70120. Regulations.
"70121. Report to Congress.".

(2) in section 70101—

(A) by inserting "microgravity research," after "information services," in subsection (a)(3);

(B) by inserting ", reentry," after "launching" both places it appears in subsection (a)(4);

(C) by inserting ", reentry vehicles," after "launch vehicles" in subsection (a)(5);

(D) by inserting "and reentry services" after "launch services" in subsection (a)(6);

(E) by inserting ", reentries," after "launches" both places it appears in subsection (a)(7);

(F) by inserting ", reentry sites," after "launch sites" in subsection (a)(8);

(G) by inserting "and reentry services" after "launch services" in subsection (a)(8);

(H) by inserting "reentry sites," after "launch sites," in subsection (a)(9);

(I) by inserting "and reentry site" after "launch site" in subsection (a)(9);

(J) by inserting ", reentry vehicles," after "launch vehicles" in subsection (b)(2);

(K) by striking "launch" in subsection (b)(2)(A);

(L) by inserting "and reentry" after "conduct of commercial launch" in subsection (b)(3);

(M) by striking "launch" after "and transfer commercial" in subsection (b)(3); and

(N) by inserting "and development of reentry sites," after "launch-site support facilities," in subsection (b)(4);

(3) in section 70102—

(A) by striking "and any payload" and inserting in lieu thereof "or reentry vehicle and any payload from Earth" in paragraph (3);

(B) in paragraph (5)—

(i) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively; and

(ii) by inserting before subparagraph (B), as so redesignated by clause (i) of this subparagraph, the following new subparagraph:

"(A) activities directly related to the preparation of a launch site or payload facility for one or more launches;";

(C) by inserting "or reentry vehicle" after "means of a launch vehicle" in paragraph (8);

(D) by redesignating paragraphs (10), (11), and (12) as paragraphs (14), (15), and (16), respectively;

(E) by inserting after paragraph (9) the following new paragraphs:

"(10) 'reenter' and 'reentry' mean to return or attempt to return, purposefully, a reentry vehicle and its payload, if any, from Earth orbit or from outer space to Earth.

"(11) 'reentry services' means—

"(A) activities involved in the preparation of a reentry vehicle and its payload, if any, for reentry; and

"(B) the conduct of a reentry.

"(12) 'reentry site' means the location on Earth to which a reentry vehicle is intended to return (as defined in a license the Secretary issues or transfers under this chapter).

"(13) 'reentry vehicle' means a vehicle designed to return from Earth orbit or outer space to Earth, or a reusable launch vehicle designed to return from outer space to Earth, substantially intact."; and

(F) by inserting "or reentry services" after "launch services" each place it appears in para-

graph (15), as so redesignated by subparagraph (D) of this paragraph;

(4) in section 70103(b)—

(A) by inserting "AND REENTRIES" after "LAUNCHES" in the subsection heading;

(B) by inserting "and reentries" after "commercial space launches" in paragraph (1); and

(C) by inserting "and reentry" after "space launch" in paragraph (2);

(5) in section 70104—

(A) by amending the section designation and heading to read as follows:

"**§ 70104. Restrictions on launches, operations, and reentries**";

(B) by inserting "or reentry site, or to reenter a reentry vehicle," after "operate a launch site" each place it appears in subsection (a);

(C) by inserting "or reentry" after "launch or operation" in subsection (a)(3) and (4);

(D) in subsection (b)—

(i) by striking "launch license" and inserting in lieu thereof "license";

(ii) by inserting "or reenter" after "may launch"; and

(iii) by inserting "or reentering" after "related to launching"; and

(E) in subsection (c)—

(i) by amending the subsection heading to read as follows: "PREVENTING LAUNCHES AND REENTRIES.—";

(ii) by inserting "or reentry" after "prevent the launch"; and

(iii) by inserting "or reentry" after "decides the launch";

(6) in section 70105—

(A) by inserting "(1)" before "A person may apply" in subsection (a);

(B) by striking "receiving an application" both places it appears in subsection (a) and inserting in lieu thereof "accepting an application in accordance with criteria established pursuant to subsection (b)(2)(D)";

(C) by adding at the end of subsection (a) the following: "The Secretary shall transmit to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a

written notice not later than 7 days after any occurrence when a license is not issued within the deadline established by this subsection.

"(2) In carrying out paragraph (1), the Secretary may establish procedures for certification of the safety of launch vehicles, reentry vehicles, safety systems, procedures, services, or personnel that may be used in conducting licensed commercial space launch or reentry activities.";

(D) by inserting "or a reentry site, or the reentry of a reentry vehicle," after "operation of a launch site" in subsection (b)(1);

(E) by striking "or operation" and inserting in lieu thereof ", operation, or reentry" in subsection (b)(2)(A);

(F) by striking "and" at the end of subsection (b)(2)(B);

(G) by striking the period at the end of subsection (b)(2)(C) and inserting in lieu thereof "; and";

(H) by adding at the end of subsection (b)(2) the following new subparagraph:

"(D) regulations establishing criteria for accepting or rejecting an application for a license

under this chapter within 60 days after receipt of such application."; and

(I) by inserting ", including the requirement to obtain a license," after "waive a requirement" in subsection (b)(3);

(7) in section 70106(a)—

(A) by inserting "or reentry site" after "observer at a launch site";

(B) by inserting "or reentry vehicle" after "assemble a launch vehicle"; and

(C) by inserting "or reentry vehicle" after "with a launch vehicle";

(8) in section 70108—

(A) by amending the section designation and heading to read as follows:

"§ 70108. Prohibition, suspension, and end of launches, operation of launch sites and reentry sites, and reentries";

and

(B) in subsection (a)—

(i) by inserting "or reentry site, or reentry of a reentry vehicle," after "operation of a launch site"; and

(ii) by inserting "or reentry" after "launch or operation";

(9) in section 70109—

(A) by amending the section designation and heading to read as follows:

"§ 70109. Preemption of scheduled launches or reentries";

(B) in subsection (a)—

(i) by inserting "or reentry" after "ensure that a launch";

(ii) by inserting ", reentry site," after "United States Government launch site";

(iii) by inserting "or reentry date commitment" after "launch date commitment";

(iv) by inserting "or reentry" after "obtained for a launch";

(v) by inserting ", reentry site," after "access to a launch site";

(vi) by inserting ", or services related to a reentry," after "amount for launch services"; and

(vii) by inserting "or reentry" after "the scheduled launch"; and

(C) in subsection (c), by inserting "or reentry" after "prompt launching";

(10) in section 70110—

(A) by inserting "or reentry" after "prevent the launch" in subsection (a)(2); and

(B) by inserting "or reentry site, or reentry of a reentry vehicle," after "operation of a launch site" in subsection (a)(3)(B);

(11) in section 70111—

(A) by inserting "or reentry" after "launch" in subsection (a)(1)(A);

(B) by inserting "and reentry services" after "launch services" in subsection (a)(1)(B);

(C) in subsection (a)(1), by inserting after subparagraph (B) the following:

"The Secretary shall coordinate the establishment of criteria and procedures for determining the priority of competing requests from the private sector and State governments for property and services under this section.";

(D) by inserting "or reentry services" after "or launch services" in subsection (a)(2);

(E) by inserting "or reentry" after "commercial launch" both places it appears in subsection (b)(1);

(F) by inserting "or reentry services" after "launch services" in subsection (b)(2)(C);

(G) by inserting after subsection (b)(2) the following new paragraph:

"(3) The Secretary shall ensure the establishment of uniform guidelines for, and consistent implementation of, this section by all Federal agencies.";

(H) by striking "or its payload for launch" in subsection (d) and inserting in lieu thereof "or reentry vehicle, or the payload of either, for launch or reentry"; and

(I) by inserting ", reentry vehicle," after "manufacturer of the launch vehicle" in subsection (d);

(12) in section 70112—

(A) in subsection (a)(1), by inserting "launch, reentry, or site operator" after "(1) When a";

(B) by inserting "or reentry" after "one launch" in subsection (a)(3);

(C) by inserting "or reentry services" after "launch services" in subsection (a)(4);

(D) in subsection (b)(1), by inserting "launch, reentry, or site operator" after "(1) A";

(E) by inserting "or reentry services" after "launch services" each place it appears in subsection (b);

(F) by inserting "applicable" after "carried out under the" in paragraphs (1) and (2) of subsection (b);

(G) by striking ", Space, and Technology" in subsection (d)(1);

(H) by inserting "OR REENTRIES" after "LAUNCHES" in the heading for subsection (e);

(I) by inserting "or reentry site or a reentry" after "launch site" in subsection (e); and

(J) in subsection (f), by inserting "launch, reentry, or site operator" after "carried out under a";

(13) in section 70113(a)(1) and (d)(1) and (2), by inserting "or reentry" after "one launch" each place it appears;

(14) in section 70115(b)(1)(D)(i)—

(A) by inserting "reentry site," after "launch site,"; and

(B) by inserting "or reentry vehicle" after "launch vehicle" both places it appears;

(15) in section 70117—

(A) by inserting "or reentry site, or to reenter a reentry vehicle" after "operate a launch site" in subsection (a);

(B) by inserting "or reentry" after "approval of a space launch" in subsection (d);

(C) by amending subsection (f) to read as follows:

"(f) LAUNCH NOT AN EXPORT; REENTRY NOT AN IMPORT.—A launch vehicle, reentry vehicle, or payload that is launched or reentered is not, because of the launch or reentry, an export or import, respectively, for purposes of a law controlling exports or imports."; and

(D) in subsection (g)—

(i) by striking "operation of a launch vehicle or launch site," in paragraph (1) and inserting in lieu thereof "reentry, operation of a launch vehicle or reentry vehicle, operation of a launch site or reentry site,"; and

(ii) by inserting "reentry," after "launch," in paragraph (2); and

(16) by adding at the end the following new sections:

"§ 70120. Regulations

"The Secretary of Transportation, within 6 months after the date of the enactment of this section, shall issue regulations to carry out this chapter that include—

"(1) guidelines for industry to obtain sufficient insurance coverage for potential damages to third parties;

"(2) procedures for requesting and obtaining licenses to operate a commercial launch vehicle or reentry vehicle;

"(3) procedures for requesting and obtaining operator licenses for launch or reentry;

"(4) procedures for requesting and obtaining launch site or reentry site operator licenses; and

"(5) procedures for the application of government indemnification.

"§ 70121. Report to Congress

"The Secretary of Transportation shall submit to Congress an annual report to accompany the President's budget request that—

"(1) describes all activities undertaken under this chapter, including a description of the process for the application for and approval of licenses under this chapter and recommendations for legislation that may further commercial launches and reentries; and

"(2) reviews the performance of the regulatory activities and the effectiveness of the Office of Commercial Space Transportation.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a)(6)(B) shall take effect upon the effective date of final regulations issued pursuant to section 70105(b)(2)(D) of title 49, United States Code, as added by subsection (a)(6)(H).

SEC. 103. LAUNCH VOUCHER DEMONSTRATION PROGRAM.

Section 504 of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1993 (15 U.S.C. 5803) is amended—

(1) in subsection (a)—

(A) by striking "the Office of Commercial Programs within"; and

(B) by striking "Such program shall not be effective after September 30, 1995.";

(2) by striking subsection (c); and

(3) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

SEC. 104. PROMOTION OF UNITED STATES GLOBAL POSITIONING SYSTEM STANDARDS.

(a) FINDING.—The Congress finds that the Global Positioning System, including satellites, signal equipment, ground stations, data links, and associated command and control facilities, has become an essential element in civil, scientific, and military space development because of the emergence of a United States commercial industry which

provides Global Positioning System equipment and related services.

(b) INTERNATIONAL COOPERATION.—In order to support and sustain the Global Positioning System in a manner that will most effectively contribute to the national security, public safety, scientific, and economic interests of the United States, the Congress encourages the President to—

(1) ensure the operation of the Global Positioning System on a continuous worldwide basis free of direct user fees; and

(2) enter into international agreements that promote cooperation with foreign governments and international organizations to—

(A) establish the Global Positioning System and its augmentations as an acceptable international standard; and

(B) eliminate any foreign barriers to applications of the Global Positioning System worldwide.

SEC. 105. ACQUISITION OF SPACE SCIENCE DATA.

(a) ACQUISITION FROM COMMERCIAL PROVIDERS.—The Administrator shall, to the maximum extent possible and while satisfying the scientific requirements of the National Aeronautics and Space Administration, acquire,

where cost effective, space science data from a commercial provider.

(b) TREATMENT OF SPACE SCIENCE DATA AS COMMERCIAL ITEM UNDER ACQUISITION LAWS.—Acquisitions of space science data by the Administrator shall be carried out in accordance with applicable acquisition laws and regulations (including chapters 137 and 140 of title 10, United States Code), except that space science data shall be considered to be a commercial item for purposes of such laws and regulations (including section 2306a of title 10, United States Code (relating to cost or pricing data), section 2320 of such title (relating to rights in technical data) and section 2321 of such title (relating to validation of proprietary data restrictions)).

(c) DEFINITION.—For purposes of this section, the term "space science data" includes scientific data concerning the elemental and mineralogical resources of the moon, asteroids, planets and their moons, and comets, Earth environmental data obtained through remote sensing observations, and solar storm monitoring.

(d) SAFETY STANDARDS.—Nothing in this section shall be construed to prohibit the Federal Government from requiring compliance with applicable safety standards.

(e) LIMITATION.—This section does not authorize the National Aeronautics and Space Administration to provide financial assistance for the development of commercial systems for the collection of space science data.

TITLE II—REMOTE SENSING

SEC. 201. LAND REMOTE SENSING POLICY ACT OF 1992 AMENDMENTS.

(a) FINDINGS.—The Congress finds that—

(1) a robust domestic United States industry in high resolution Earth remote sensing is in the economic, employment, technological, scientific, and national security interests of the United States;

(2) to secure its national interests the United States must nurture a commercial remote sensing industry that leads the world;

(3) the Federal Government must provide a stable business environment for that industry to succeed and fulfill the national interest; and

(4) it is the responsibility of the Federal Government to create domestic and international conditions favorable to the health and growth of the United States commercial remote sensing industry.

(b) AMENDMENTS.—The Land Remote Sensing Policy Act of 1992 is amended—

(1) in section 2 (15 U.S.C. 5601)—

(A) by amending paragraph (5) to read as follows:

"(5) Commercialization of land remote sensing is a near-term goal, and should remain a long-term goal, of United States policy.";

(B) by striking paragraph (6) and redesignating paragraphs (7) through (16) as paragraphs (6) through (15), respectively; and

(C) in paragraph (11), as so redesignated by subparagraph (B) of this paragraph, by striking "determining the design" and all that follows through "international consortium" and inserting in lieu thereof "ensuring the continuity of Landsat quality data";

(2) in section 101 (15 U.S.C. 5611)—

(A) by inserting the following after subsection (b)(4):

"The Director of the Office of Science and Technology Policy shall, no later than 60 days after the date of the enactment of the Commercial Space Act of 1997, transmit the management plan to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.";

(B) in subsection (c)—

(i) by inserting "and" at the end of paragraph (6);

(ii) by striking paragraph (7); and

(iii) by redesignating paragraph (8) as paragraph (7); and

(C) in subsection (e)(1)—

(i) by inserting "and" at the end of subparagraph (A);

(ii) by striking ", and" at the end of subparagraph (B) and inserting in lieu thereof a period; and

(iii) by striking subparagraph (C);

(3) in section 201 (15 U.S.C. 5621)—

(A) by inserting "(1)" after "NATIONAL SECURITY.—" in subsection (b);

(B) in subsection (b)(1), as so designated by subparagraph (A) of this paragraph, by striking "No license" and inserting in lieu thereof "Except as provided in paragraph (3), no license";

(C) by adding at the end of subsection (b) the following new paragraphs:

"(2) The Secretary, within 6 months after the date of the enactment of the Commercial Space Act of 1997, shall publish in the Federal Register a complete and spe-

cific list of all information required to comprise a complete application for a license under this title. An application shall be considered complete when the applicant has provided all information required by the list most recently published in the Federal Register before the date the application was first submitted. Unless the Secretary has, within 30 days after receipt of an application, notified the applicant of information necessary to complete an application, the Secretary may not deny the application on the basis of the absence of any such information.

"(3) The Secretary shall grant a license under this title to any United States commercial provider (as such term is defined in section 2 of the Commercial Space Act of 1997) whose application is in full compliance with the requirements of this title.";

(D) in subsection (c), by amending the second sentence thereof to read as follows: "If the Secretary has not granted the license within such 120-day period, the Secretary shall inform the applicant, within such period, of any pending issues and actions required to be carried out by the applicant or the Secretary in order to result in the granting of a license."; and

(E) in subsection (e)(2)(B), by striking "and the importance of promoting widespread

access to remote sensing data from United States and foreign systems";

(4) in section 202 (15 U.S.C. 5622)—

(A) by striking "section 506" in subsection (b)(1) and inserting in lieu thereof "section 507";

(B) in subsection (b)(2), by striking "as soon as such data are available and on reasonable terms and conditions" and inserting in lieu thereof "on reasonable terms and conditions, including the provision of such data in a timely manner";

(C) in subsection (b)(6), by striking "any agreement" and inserting in lieu thereof "any significant or substantial agreement relating to land remote sensing"; and

(D) by inserting after paragraph (6) of subsection (b) the following:

"The Secretary may not seek to enjoin a company from entering into a foreign agreement the Secretary receives notification of under paragraph (6) unless the Secretary has, within 30 days after receipt of such notification, transmitted to the licensee a statement that such agreement is inconsistent with the national security or inter-

national obligations of the United States, including an explanation of such inconsistency.";

(5) in section 203 (15 U.S.C. 5623)—

(A) in subsection (a)(2), by striking "under this title and" and inserting in lieu thereof "under this title or";

(B) in subsection (a)(3), by striking "provide penalties" and inserting in lieu thereof "seek, in a United States District Court with personal jurisdiction over the licensee, penalties"; and

(C) in subsection (b), by striking "(a)(3),";

(6) in section 204 (15 U.S.C. 5624), by striking "may" and inserting in lieu thereof "shall";

(7) in section 205(c) (15 U.S.C. 5625(c)), by striking "if such remote sensing space system is licensed by the Secretary before commencing operation" and inserting in lieu thereof "if such private remote sensing space system will be licensed by the Secretary before commencing its commercial operation";

(8) by adding at the end of title II the following new section:

"SEC. 206. NOTIFICATION.

"(a) LIMITATIONS ON LICENSEE.—Not later than 30 days after a determination by the Secretary to require a licensee to limit collection or distribution of data from a system licensed under this title, the Secretary shall provide written notification to Congress of such determination, including the reasons therefor, the limitations imposed on the licensee, and the period during which such limitations apply.

"(b) TERMINATION, MODIFICATION, OR SUSPENSION.—Not later than 30 days after an action by the Secretary to seek an order of injunction or other judicial determination pursuant to section 202(b) or section 203(a)(2), the Secretary shall provide written notification to Congress of such action and the reasons therefor.";

(9) in section 301 (15 U.S.C. 5631)—

(A) by inserting ", that are not being commercially developed" after "and its environment" in subsection (a)(2)(B); and

(B) by adding at the end the following new subsection:

"(d) DUPLICATION OF COMMERCIAL SECTOR ACTIVITIES.—The Federal Government shall not undertake activities under this section which duplicate activities available from the United States commercial sector, unless

such activities would result in significant cost savings to the Federal Government.";

(10) in section 302 (15 U.S.C. 5632)—

(A) by striking "(a) GENERAL RULE.—";

(B) by striking ", including unenhanced data gathered under the technology demonstration program carried out pursuant to section 303," and inserting in lieu thereof "that is not otherwise available from the commercial sector"; and

(C) by striking subsection (b);

(11) by repealing section 303 (15 U.S.C. 5633);

(12) in section 401(b)(3) (15 U.S.C. 5641(b)(3)), by striking ", including any such enhancements developed under the technology demonstration program under section 303,";

(13) in section 501(a) (15 U.S.C. 5651(a)), by striking "section 506" and inserting in lieu thereof "section 507";

(14) in section 502(c)(7) (15 U.S.C. 5652(c)(7)), by striking "section 506" and inserting in lieu thereof "section 507"; and

(15) in section 507 (15 U.S.C. 5657)—

(A) by amending subsection (a) to read as follows:

"(a) RESPONSIBILITY OF THE SECRETARY OF DEFENSE.—The Secretary shall consult with the Secretary of Defense on all matters under this section affecting national security. The Secretary of Defense shall be responsible for determining those conditions, consistent with this Act, necessary to meet national security concerns of the United States, and for notifying the Secretary promptly of such conditions. Not later than 180 days after the date of the enactment of the Commercial Space Act of 1997, the Secretary of Defense shall publish in Commerce Business Daily, for the purpose of soliciting comments, notice of all national security concerns that pertain to the licensing of private remote sensing space systems. Not later than 60 days after receiving a request from the Secretary, the Secretary of Defense shall notify the Secretary and the licensee of, and describe in detail, any specific national security concerns of the United States that the Secretary of Defense determines are an appropriate reason for delaying, modifying, or rejecting a license application. The Secretary of Defense shall concurrently recommend to the Secretary any conditions for a license issued under title II, consistent with this Act, that the Secretary of Defense considers necessary to secure the national security concerns of the United States. If no such notification has been received by the Secretary within such 60-day period,

the Secretary shall deem activities proposed in the license application to be consistent with the protection of the national security of the United States.";

(B) by striking subsection (b)(1) and (2) and inserting in lieu thereof the following:

"(b) RESPONSIBILITY OF THE SECRETARY OF STATE.—(1) The Secretary shall consult with the Secretary of State on all matters under this section affecting international obligations of the United States. The Secretary of State shall be responsible for determining those conditions, consistent with this Act, necessary to meet international obligations of the United States and for notifying the Secretary promptly of such conditions. Not later than 180 days after the date of the enactment of the Commercial Space Act of 1997, the Secretary of State shall publish in Commerce Business Daily, for the purpose of soliciting comments, notice of all international obligations of the United States that pertain to the licensing of private remote sensing space systems. Not later than 60 days after receiving a request from the Secretary, the Secretary of State shall notify the Secretary and the licensee of, and describe in detail, any specific international obligations of the United States that the Secretary of State determines are an appropriate reason for delaying, modifying, or rejecting a license application. The Secretary of State shall

concurrently recommend to the Secretary any conditions for a license issued under title II, consistent with this Act, that the Secretary of State considers necessary to secure the international obligations of the United States. If no such notification has been received by the Secretary within such 60-day period, the Secretary shall deem activities proposed in the license application to be consistent with the international obligations of the United States.

"(2) Appropriate United States Government agencies are authorized and encouraged to provide to developing nations, as a component of international aid, resources for purchasing remote sensing data, training, and analysis from United States commercial providers."; and

(C) in subsection (d), by striking "Secretary may require" and inserting in lieu thereof "Secretary shall, where appropriate, require".

SEC. 202. ACQUISITION OF EARTH SCIENCE DATA.

(a) ACQUISITION.—For purposes of meeting Government goals for Mission to Planet Earth, the Administrator shall, to the maximum extent possible and while satisfying the scientific requirements of the National Aeronautics and Space Administration, acquire, where cost-effective, space-based and airborne Earth remote sensing data, serv-

ices, distribution, and applications from a commercial provider.

(b) TREATMENT AS COMMERCIAL ITEM UNDER ACQUISITION LAWS.—Acquisitions by the Administrator of the data, services, distribution, and applications referred to in subsection (a) shall be carried out in accordance with applicable acquisition laws and regulations (including chapters 137 and 140 of title 10, United States Code), except that such data, services, distribution, and applications shall be considered to be a commercial item for purposes of such laws and regulations (including section 2306a of title 10, United States Code (relating to cost or pricing data), section 2320 of such title (relating to rights in technical data) and section 2321 of such title (relating to validation of proprietary data restrictions)).

(c) STUDY.—(1) The Administrator shall conduct a study to determine the extent to which the baseline scientific requirements of Mission to Planet Earth can be met by commercial providers, and how the National Aeronautics and Space Administration will meet such requirements which cannot be met by commercial providers.

(2) The study conducted under this subsection shall—

(A) make recommendations to promote the availability of information from the National Aero-

nautics and Space Administration to commercial providers to enable commercial providers to better meet the baseline scientific requirements of Mission to Planet Earth;

(B) make recommendations to promote the dissemination to commercial providers of information on advanced technology research and development performed by or for the National Aeronautics and Space Administration; and

(C) identify policy, regulatory, and legislative barriers to the implementation of the recommendations made under this subsection.

(3) The results of the study conducted under this subsection shall be transmitted to the Congress within 6 months after the date of the enactment of this Act.

(d) SAFETY STANDARDS.—Nothing in this section shall be construed to prohibit the Federal Government from requiring compliance with applicable safety standards.

(e) ADMINISTRATION AND EXECUTION.—This section shall be carried out as part of the Commercial Remote Sensing Program at the Stennis Space Center.

TITLE III—FEDERAL ACQUISITION OF SPACE TRANSPORTATION SERVICES

SEC. 301. REQUIREMENT TO PROCURE COMMERCIAL SPACE TRANSPORTATION SERVICES.

(a) IN GENERAL.—Except as otherwise provided in this section, the Federal Government shall acquire space transportation services from United States commercial providers whenever such services are required in the course of its activities. To the maximum extent practicable, the Federal Government shall plan missions to accommodate the space transportation services capabilities of United States commercial providers.

(b) EXCEPTIONS.—The Federal Government shall not be required to acquire space transportation services under subsection (a) if, on a case-by-case basis, the Administrator or, in the case of a national security issue, the Secretary of the Air Force, determines that—

(1) a payload requires the unique capabilities of the space shuttle;

(2) cost effective space transportation services that meet specific mission requirements would not be reasonably available from United States commercial providers when required;

(3) the use of space transportation services from United States commercial providers poses an unacceptable risk of loss of a unique scientific opportunity;

(4) the use of space transportation services from United States commercial providers is inconsistent with national security objectives;

(5) it is more cost effective to transport a payload in conjunction with a test or demonstration of a space transportation vehicle owned by the Federal Government; or

(6) a payload can make use of the available cargo space on a Space Shuttle mission as a secondary payload, and such payload is consistent with the requirements of research, development, demonstration, scientific, commercial, and educational programs authorized by the Administrator.

(c) DELAYED EFFECT.—Subsection (a) shall not apply to space transportation services and space transportation vehicles acquired or owned by the Federal Government before the date of the enactment of this Act, or with respect to which a contract for such acquisition or ownership has been entered into before such date.

(d) HISTORICAL PURPOSES.—This section shall not be construed to prohibit the Federal Government from ac-

quiring, owning, or maintaining space transportation vehicles solely for historical display purposes.

SEC. 302. ACQUISITION OF SPACE TRANSPORTATION SERVICES.

(a) TREATMENT OF SPACE TRANSPORTATION SERVICES AS COMMERCIAL ITEM UNDER ACQUISITION LAWS.—Acquisitions of space transportation services by the Federal Government shall be carried out in accordance with applicable acquisition laws and regulations (including chapters 137 and 140 of title 10, United States Code), except that space transportation services shall be considered to be a commercial item for purposes of such laws and regulations (including section 2306a of title 10, United States Code (relating to cost or pricing data), section 2320 of such title (relating to rights in technical data) and section 2321 of such title (relating to validation of proprietary data restrictions)).

(b) SAFETY STANDARDS.—Nothing in this section shall be construed to prohibit the Federal Government from requiring compliance with applicable safety standards.

SEC. 303. LAUNCH SERVICES PURCHASE ACT OF 1990 AMENDMENTS.

The Launch Services Purchase Act of 1990 (42 U.S.C. 2465b et seq.) is amended—

(1) by striking section 202;

(2) in section 203—

(A) by striking paragraphs (1) and (2); and

(B) by redesignating paragraphs (3) and (4) as paragraphs (1) and (2), respectively;

(3) by striking sections 204 and 205; and

(4) in section 206—

(A) by striking "(a) COMMERCIAL PAYLOADS ON THE SPACE SHUTTLE.—"; and

(B) by striking subsection (b).

Chairman ROHRABACHER. I further ask the members to proceed with the amendments in the order that they are printed on the roster.

The first amendment on the roster is the bipartisan Managers' Amendment offered by myself and Mr. Cramer. The Clerk will report the amendment.

Mr. STOMBRES. Amendment offered by Mr. Rohrabacher and Mr. Cramer. Page 25, line 18——

Chairman ROHRABACHER. Without objection, the amendment will be considered as read.

①

AMENDMENTS TO H.R. 1702

OFFERED BY MR. ROHRABACHER AND MR. CRAMER

Page 25, line 18, strike "; and" and insert in lieu thereof a semicolon.

Page 25, line 22, strike the period and insert in lieu thereof "; and".

Page 25, after line 22, insert the following new paragraph:

(5) it is a fundamental goal of United States policy to support and enhance United States industrial competitiveness in the field of remote sensing, while at the same time protecting the national security concerns and international obligations of the United States.

Page 30, lines 3 through 12, amend paragraph (5) to read as follows:

(5) in section 203(a)(2) (15 U.S.C. 5623(a)(2)), by striking "under this title and" and inserting in lieu thereof "under this title and/or";

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Page 32, line 2, insert ", or are necessary for reasons of national security or international obligations" after "Federal Government".

Chairman ROHRABACHER. I recognize myself for 5 minutes. This amendment was drafted by the Subcommittee's bipartisan staff after discussion with the White House and various Executive Branch departments and agencies. It reflects some of their input and response to some of their requests for changes. We are making these changes to demonstrate our willingness to work in good faith with the Executive Branch in fashioning and passing this legislation.

Now it will be their turn to demonstrate good faith and work with us to ensure that the additional changes that the State Department and the Defense Department are asking to make to the bill are both necessary and consistent with the Congress and the White House shared commitments to see commercial space emerge as a new source of jobs and economic growth for this country.

As these discussions with the White House and the Executive Branch continue, we may need to amend the bill again during the Full Committee markup. In order to save time at this point I would like to place in the record a brief description of the amendment which has been distributed to the members of the Subcommittee.

Without objection, that is put in the record.

[The description referred to follows:]

MR. ROHRABACHER'S STATEMENT FOR THE RECORD ON THE MANAGERS' AMENDMENT AT SPACE & AERONAUTICS SUBCOMMITTEE MARKUP OF H.R. 1702

This amendment makes four minor changes in the bill. First, we're adding a new finding regarding remote sensing. This finding reaffirms that Congress expects the national security and the international obligations of the United States to be protected as the commercial remote sensing industry emerges.

Second, we're making a technical change to the government's authority to seek to modify or terminate a commercial remote sensing license. Current law may be interpreted to require the Secretary of Commerce to seek to both modify a license and terminate operations at the same time, which makes no sense. The original bill changed this so that the Secretary can do one or the other, and does not *have* to do both. The amendment ensures that the Secretary *can* do both, if he chooses.

Third, current law allows the Department of Commerce to impose administrative penalties of $10,000 per day on companies it believes are failing to comply with the terms of their license.

The bill removes this authority to unilaterally impose such penalties by requiring the Department of Commerce to go to court and prove noncompliance before penalties can be imposed.

Both the State and Commerce Departments objected to this change. We have agreed to amend the bill and preserve the Commerce Department's ability to impose administrative fees.

Finally, on page 32, we're adding an exception to the bill's prohibition on government duplication of private sector activities. Under the bill, the government may only duplicate private sector activities if doing so would result in significant cost savings. Under the amendment, the government will also be able to duplicate private sector activity if it is necessary for reasons of national security or international obligations.

Chairman ROHRABACHER. I now recognize Mr. Cramer to speak on the amendment.

Mr. CRAMER. As I said, I would like to join the Chairman in speaking in support of our proposed amendments. These are a relatively modest set of amendments. They clarify, as I said, that H.R. 1702 is intended to promote a healthy and vigorous remote sensing industry while at the same time making sure that national security concerns and international obligations are protected.

As Chairman Rohrabacher has indicated, we are continuing to discuss a number of the provisions of H.R. 1702 with the Administration. The discussions have been constructive and I believe that they will ultimately result in a bill that will be supported by both the Administration and the Congress. These amendments are a first step and I urge my colleagues to support them.

Chairman ROHRABACHER. Is there any further discussion?

Mr. Sensenbrenner?

Chairman SENSENBRENNER. No.

Chairman ROHRABACHER. If there is no further discussion then this vote will occur on the amendment.

All in favor of the Managers' Amendment say aye.

[Chorus of ayes]

Chairman ROHRABACHER. All opposed?

[No response]

The ayes have it and the amendment is agreed to.

Mr. HASTINGS. Mr. Chairman, I have an amendment at the desk.

Chairman ROHRABACHER. Judge Hastings, your Honor, you have an amendment at the desk. Are you ready to proceed with your amendment?

Mr. HASTINGS. I am, sir.

Chairman ROHRABACHER. You may proceed.

The Clerk will report the amendment.

Mr. STOMBRES. Amendment offered by Mr. Hastings.

Mr. HASTINGS. I ask unanimous consent that the amendment be accepted as read, Mr. Chairman.

Chairman ROHRABACHER. Without objection the amendment will be considered as read and the gentleman is recognized for 5 minutes to offer his amendment.

[The prepared statement of Mr. Hastings and the text of the amendment follow:]

STATEMENT OF CONGRESSMAN ALCEE L. HASTINGS IN SUPPORT OF THE HASTINGS AMENDMENT TO H.R. 1702

JUNE 11, 1997

Mr. Chairman,

I offer this amendment in conjunction with my colleague, Mr. Wexler of Florida, to support NASA's 11 Commercial Space Centers. The Centers involve a collaboration among academia, industry and government. Managed by NASA's Office of Advanced Concepts and Technology, the Centers are co-located at and operated by a number of universities and research institutes across the country, including Alabama, Wisconsin, Texas and Florida. Each dollar from NASA distributed to the centers is leveraged by industry and academia, generating two to three times the initial investment.

Until 1996, all the Commercial Space Centers were managed under one roof at NASA headquarters. But last year, six of the Centers were detached and now are managed by field centers (Stennis Space Center and Lewis Research Center). This includes the Space Communications Technology Center in Boca Raton, Florida. When NASA reorganized the six Centers, it did not continue to provide funding from its headquarter's budget. Consequently, the six Centers had to compete for resources with the field centers. And, with their budgets in decline, many of the Centers were getting the short end of the stick.

The Centers should be funded directly from NASA headquarters, and not be farmed out to field offices, where they are subject to cannibalism. Let's fix this problem, Mr. Chairman. The amendment offered would do just that by allowing NASA headquarters to control the funding of the Centers.

②

AMENDMENT TO H.R. 1702

OFFERED BY MR. HASTINGS OF FLORIDA

Page 25, after line 4, insert the following new section:

SEC. 106. ADMINISTRATION OF COMMERCIAL SPACE CENTERS.

The Administrator shall administer the Commercial Space Center program in a coordinated manner from National Aeronautics and Space Administration headquarters.

Page 2, in the table of contents, after the item relating to section 105, insert the following new item:

Sec. 106. Administration of Commercial Space Centers.

Mr. HASTINGS. I thank the Chair, and more specifically thank you and the Ranking Member and the Chairman of the Full Committee, Mr. Sensenbrenner for the opportunity to come forward with this amendment, and to compliment the Full Chairman and you, Mr. Chairman, for the bipartisan spirit that has been demonstrated throughout this Congressional session.

I offer this amendment in conjunction with my colleague, Robert Wexler of Florida to support NASA's 11 commercial space centers. The centers involve a collaboration among academia, industry and government managed by NASA's Office of Advanced Concepts and Technology. The centers are co-located and operated by a number of universities and research institutes across the country including Alabama, which gets our Ranking Member's juices flowing, Wisconsin, Texas, and I think everybody that ever was on a committee is on this one from Texas, and Florida. Each dollar from NASA distributed to the centers is leveraged by industry and academia generating two to three times the initial investment.

As we all know, Mr. Chairman, until 1996 all the commercial space centers were managed under one roof at NASA Headquarters, but last year six of the centers were detached and now are managed by field centers, Stennis Space Center and Lewis Research Center. This includes the Space Communications Technology Center in Boca Raton, Florida, which is situated in the district that I'm privileged to serve. When NASA recognized the six centers it did not continue to provide funding from its Headquarters budget. Consequently the six centers had to compete for resources with the field centers, and with their budgets in decline many of the centers were getting the short end of the stick.

The centers, in my view, Mr. Chairman, should be funded directly from NASA Headquarters and not be farmed out to field offices where they are subject to cannibalism. Let's fix this problem. I believe this amendment moves us in that direction, and I ask my colleagues to support it and allow NASA Headquarters to control the funding of the centers.

With that I yield back any time I may have, Mr. Chairman.

Chairman ROHRABACHER. Thank you very much, Mr. Hastings.

Mr. Weldon.

Mr. WELDON of Florida. Thank you, Mr. Chairman. I want to express my support for Mr. Hastings' amendment. I worked with Mr. Wexler on this problem with funding the commercial space center at Florida Atlantic University and it reflects an overall problem that NASA has with managing commercial space efforts.

This amendment would simply require NASA to manage and fund commercial space efforts from Headquarters rather than leaving it up to individual field centers which have their own unique regional budget and political struggles. When a field center is responsible for a commercial space efforts hundreds of miles away there is just not the same incentive to ensure its success.

I commend my colleague from Florida for this forward-thinking amendment and I ask the Committee to support it.

Thank you, Mr. Chairman.

Chairman ROHRABACHER. Thank you.

Mr. Cramer.

Mr. CRAMER. Mr. Chairman, I would like to speak in support of Mr. Hastings' amendment. I could say a lot of things about the centers for commercial development, all positive, but Mr. Hastings has raised some concerns about the way that program has been administered and has proposed what amounts to a very reasonable solution for those problems, and it's important that we do solve those problems.

Thus, I will support the amendment and will work with Mr. Hastings, the Chairman and NASA to ensure that we maintain a healthy and efficient commercial program.

Chairman ROHRABACHER. Thank you very much.

Does anyone else want to speak?

[No response.]

Seeing none, the Chairman accepts this amendment by the gentleman from Florida and thanks him for his strong support of NASA's commercial center program.

Mr. HASTINGS. Thank you, Mr. Chairman.

Chairman ROHRABACHER. I think your amendment will really make a great contribution. This is the type of fine-tuning that we need to make sure the system is working and the taxpayers' dollars are being spent wisely.

I believe that the amendment will preserve a consistent and fair process at NASA Headquarters for awarding and renewal of funding for commercial space centers based on peer review of merit and performance. It is not the Congress' job to pick centers to be funded or cut, but it is our job to ensure that the centers are judged on their merits using a fair and consistent set of standards. It appears for now that Headquarters needs to determine and apply those standards so that commercial space centers don't get lost in the process of decentralization.

The vote now occurs on the amendment by Mr. Hastings.

All in favor say aye.

[Chorus of ayes]

Chairman ROHRABACHER. Opposed?

[No response]

The ayes have it and the amendment is agreed to.

Are there any other amendments?

[No response]

There are none.

If there are no further amendments the question is on H.R. 1702 as amended.

All those in favor will say aye.

[Chorus of ayes]

All opposed say nay.

[No response]

In the opinion of the Chair the ayes have it.

The Chair recognizes the gentleman from Alabama for a motion.

Mr. CRAMER. Mr. Chairman, I move that the Subcommittee report the bill, H.R. 1702, the Commercial Space Act of 1997 as amended.

Furthermore, I move to instruct the staff to prepare the Subcommittee report, to make technical and conforming amendments and that the Chairman take all necessary steps to bring the bill before the Full Committee for consideration.

Chairman ROHRABACHER. The Subcommittee has heard the motion.

Those in favor will say aye.

[Chorus of ayes]

Chairman ROHRABACHER. Those opposed will say no.

[No response]

The motion has been agreed to and the bill is reported to the Full Committee.

The Chair would like to thank all members for their participation today. The Full Committee markup will be held next Wednesday on this legislation.

Let me note before we break that this piece of legislation is something that exemplifies the kind of cooperation we can have, and this Chairman is open to any ideas that you have for legislation. We passed a 2-year budget authorization and that gives us time to do some oversight and gives us time to put together some legislation like Judge Hastings has done here that will help fine-tune the system and make it a bit better. So please feel free to contact the Ranking Member or myself and we'll try to accommodate you. If there is a disagreement we'll have an honest disagreement, but you'll get your hearing and your legislative ideas will be considered by the this Subcommittee.

So thank you all very much.

Without objection the Subcommittee is now adjourned.

[The Subcommittee adjourned at 10:24 a.m., subject to the call of the Chair.]

IX. PROCEEDINGS OF FULL COMMITTEE MARKUP

FULL COMMITTEE MARKUP OF H.R. 1702— THE COMMERCIAL SPACE ACT OF 1997

WEDNESDAY, JUNE 18, 1997

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON SCIENCE,
Washington, DC.

The Committee convened at 1:12 p.m. in room 2318 of the Rayburn House Office Building, Hon. F. James Sensenbrenner, Jr., Chairman of the Committee, presiding.

Members present: Chairman Sensenbrenner and Representatives Brown, Hall, Cramer, Rohrabacher, Weldon (FL), Luther, Capps, Bartlett, Calvert, Weldon (PA), Boehlert, Salmon, Brady, Nethercutt, Jr., Hooley, Tauscher, Lampson, Stabenow, Jackson-Lee, Doyle, Lofgren, Rivers, Johnson, McHale, Roemer, Gordon, Morella, Ehlers, Gutknecht, Gordon, Hooley, and Etheridge.

Staff present: Bill Buckey, Eric Sterner and Patricia Schwartz.

Chairman SENSENBRENNER. The Committee will be in order. The Chair notes the presence of a working quorum. Pursuant to notice, the members of the Committee on Science will address the following issues: the Democratic Subcommittee assignments; and consideration of H.R. 1702, the Commercial Space Act of 1997.

Before we proceed on the commercial space bill, the Chair recognizes the gentleman from California, Mr. Brown, for a motion regarding Subcommittee assignments.

Mr. BROWN of California. Thank you very much, Mr. Chairman. As the members may know, Mr. Doggett has left the Committee on our side for greener pastures leaving two Subcommittee vacancies. I'm very pleased that Ellen Tauscher has been appointed to the Committee further swelling the ranks of the California members. Ellen is from the 10th District of California which includes the Livermore National Laboratory. She will be joining the Technology Subcommittee, and Mr. Hastings will be filling the vacancy on the Energy and Environment Subcommittee if my motion to appoint them to those two Committees is approved.

Mr. Chairman, by direction of the Democratic Caucus of the Committee on Science, I move the appointment of Hon. Alcee Hastings to the Subcommittee on Energy and Environment, and the appointment of Hon. Ellen Tauscher to the Subcommittee on Technology.

Chairman SENSENBRENNER. Without objection, the previous question is ordered, and the motion of the gentleman from California is agreed to.

Next on the agenda is consideration of H.R. 1702, the Commercial Space Act of 1997, which the Clerk will report by title.

Ms. SCHWARTZ. H.R. 1702 as reported by the House Subcommittee on Space. Short title, this Act may be cited as the Commercial Space Act of 1997.

Chairman SENSENBRENNER. Without objection, the first reading of the bill is dispensed with, and the Chair recognizes himself for 5 minutes for an opening statement.

Normally when we talk about legislation at a markup the Chair summarizes the elements of the bill and expresses his fervent wish that the President will sign it at some future date. While I won't disappoint you in this area I'm going to focus instead on politics because that's the hard part. Let's begin at the top since the national discussion of politics often begins with the White House.

Since he has come to office the President has released several policies to promote commercial space development, space transportation, remote sensing and space-based navigation. These are pretty good policies and could help ensure American companies lead in the commercialization of space and that the jobs and benefits of space commercialization come to the United States and don't go overseas.

In Congress we generally support the President's policies. Last year we passed H.S. 3936, the Space Commercialization Promotion Act of 1996 that codifies some aspects of the President's policies in law. We had representatives from the White House and the Executive Branch testify before the Space and Aeronautics Subcommittee. They asked for some modest changes to the bill which we made before we passed it. There was one exception regarding lifting post-employment restrictions on NASA's Space Shuttle workforce. We wanted to lift them and the White House didn't. We resolved the White House's problem in this year's bill.

We reintroduced the bill with a few modest changes as H.R. 1702, the Commercial Space Act of 1997. We have five original bipartisan co-sponsors, and I'm pleased to report that seven Members from both sides of the aisle have joined us as co-sponsors since the Subcommittee markup. I hope a few more Members will get on board before we file the legislative report.

So where do the politics come in if we're all in agreement? Politics come in when you have to manage an interagency process and coordinate a flurry of paper from departments and agencies worried about the effect that the bill will have on their prerogatives. We understand that departments play different roles in moving our commercial space interests forward. So the Committee is trying to work with the Executive Branch to address these concerns that appear to be substantive and to clarify issues that may lead to different interpretations of intent.

We made a few changes to the bill in last week's Subcommittee markup as a demonstration of our commitment to working with the Administration. For example, we removed the bill's requirement that the Secretary of Commerce go to court before imposing penalties on licensed remote sensing companies. Both the State and Commerce Departments indicated that this authority helps them ensure that licensees operate their satellites consistent with U.S. national security interests and international obligations.

We made additional changes to satisfy various departments and agencies and we will make more today to address concerns raised by NASA and the Departments of State, Defense, Commerce and Transportation. We have not done everything they asked us to do in the manner they asked, but we have proven that this Committee will work constructively with the Administration to address the serious and substantive concerns that it has.

That being said, I'm opposed to making changes simply to accommodate bureaucratic turf battles. In general the Administration and particularly the White House has tried to manage this process in a positive way, and I appreciate its efforts. We have taken several steps in the Administration's direction. From the discussions we have had with the White House and the Executive Departments the Administration has identified two significant remaining concerns.

First, the Administration objects to the bill's requirements for the Departments of State and Defense to publish lists of national security concerns and international obligations they will use to determine if a license is consistent with our national security and international obligations. Our intent here is to move the government in the direction of telling the commercial sector what standards the government will use when it judges them. That information also helps companies avoid wasting time on activities that the government might object to because they know in advance what issues are important, and that's only fair.

Second, in existing law there are multiple references to the need to ensure that licensed remote sensing operations are consistent with national security concerns and international obligations. There is one reference to international obligations and policies and this bill removes that reference. I am prepared to work toward a compromise on both these issues in exchange for a White House commitment of active support for the bill.

Let me say that again so that everyone is perfectly clear about where I stand. I am prepared to resolve the Administration's two main problems with this bill in the interests of bipartisanship and the spirit of cooperation that I think the White House and the Committee are working toward. Unfortunately, the White House has instructed the Committee that no unified statement of Administration position is possible until after the Committee passes this legislation. I regret that a coordination of the various agencies concerned is not possible, but that's the call that has been made from up the street.

I want a commitment from the White House that if we make a deal the White House will back that deal and actively support the bill, and I will not allow this Committee, the House or the commercial space industry to be nickeled and dimed to death by departments and agencies fighting turf battles. I don't think the White House has any desire to see that happen either. So we ought to be able to work this issue out after the Committee does its business today.

It is my hope that by acting to pass this bill today we will take another step forward in securing the President's support for legislation so vital to the health of our commercial space industry, and

I recognize the gentleman from California, Mr. Brown for an opening statement.

Mr. BROWN of California. Thank you very much, Mr. Chairman. I want to express my commendation for the views that you have stated here. As always you are extremely forthright, and I happen, on the substance of the matters that you have discussed, to be more in agreement with you than I am with the Administration. However, I am taking a position here that would lead to getting the Administration on board, and I hope that we can do so and get this bill passed and signed into law.

I am a co-sponsor of the bill, and I want to commend the Chairman for the priority he is giving to passing it. His action is in accord with the Committee's long-standing bipartisan commitment to the development of a healthy and robust commercial space sector.

Indeed, I believe that the Committee can be proud of the role it has played over the past 2 decades in helping to promote the emergence of commercial launch services and commercial remote sensing and value-added services industries. These industries are now poised to emulate the example of the highly successful satellite communications industry which continues to enjoy explosive growth coupled with the emergence of exciting new services.

Nevertheless, more needs to be done to provide a constructive and stable policy environment for commercial space ventures. H.R. 1702 can play a useful, if modest, role in promoting such an environment. I would note in particular the provision of reentry licensing authority in H.R. 1702. If the promise of advanced reusable launch vehicles and other reentry vehicles is to be realized, we will need to ensure that the required licensing framework is in place, and I believe this bill provides that framework.

The bill is not perfect, of course. The Administration has raised a number of, I say here thoughtful and constructive concerns, but I'm not sure I want to emphasize that too much, about the legislation. We are continuing to work with the Administration to seek common ground, and I hope that we can address some of the most significant concerns in today's markup.

I really believe that the Chairman is more in tune with many of the things I have said in the past when he says he is opposed to making changes to satisfy bureaucratic turf battles because I think a lot of that is involved here, but I do feel an obligation to help guide this bill so that it ultimately can get the President's signature.

I hope that I can assist the Chairman in working to resolve these problems of getting a unified Administration position on these things and in time that they can be embodied in a joint amendment which we can offer at the time the bill is brought to the Floor. I think we are not going to be able to resolve them before we complete this markup, and I'm not insisting that we do at this point.

Chairman SENSENBRENNER. I thank the gentleman from California.

Without objection, other members' opening statements will be inserted in the record at this point.

[The prepared statement of Mr. Weldon follows:]

STATEMENT OF REP. DAVE WELDON ON THE MARKUP OF THE COMMERCIAL SPACE ACT OF 1997

Washington, DC.——U.S. Representative Dave Weldon (R-FL) issued the following statement in advance of today's Science Committee markup of the Commercial Space Act of 1997:

Mr. Chairman, I want to thank you for your diligence in moving this bill forward. Our Nation's future role in space depends a great deal on the ability to develop a viable commercial market in and for space, and H.R. 1702 marks an important step in that direction. I am committed to working with you as this moves forward to the House Floor, and I encourage our Senate colleagues to take this up as soon as possible. This legislation deserves bipartisan Congressional and White House support.

H.R. 1702 sends an important signal to the commercial space community by moving the Federal Government towards increased purchase of launch and remote sensing services that are available commercially. It also instructs NASA to maximize the commercial opportunities on the International Space Station, which is critical to fostering a private sector role in the development and exploration of space.

I will be offering an amendment today that improves the bill, one that ensures the potential contributions of state governments are not overlooked as we promote the commercial space market. Some States—such as California, Virginia, Florida, Texas, Alabama, New Mexico and others—are investing state funds in space-related facilities and activities.

My amendment simply states that all of the studies and reports that are ordered under Section 101 of H.R. 1702 must consider the potential role of state governments as "brokers" of commercial space work between NASA and the private sector. State governments can provide additional sources of capital and expertise that could be important resources for commercial ventures, and my amendment would simply ensure that they are not overlooked as Space Station commercialization planning takes place.

I look forward to working with my colleagues as we consider this bill.

Chairman SENSENBRENNER. Without objection, the bill will be considered as read and open for amendment at any point.

Hearing none, so ordered.

[A section-by-section analysis of H.R. 1702 and the text of the bill follow:]

H.R. 1702, COMMERCIAL SPACE ACT OF 1997
AS REPORTED BY THE SUBCOMMITTEE ON SPACE AND AERONAUTICS

SECTION-BY-SECTION ANALYSIS

SECTION 1 SHORT TITLE
SECTION 2 DEFINITIONS

TITLE I PROMOTION OF COMMERCIAL SPACE OPPORTUNITIES

SECTION 101 COMMERCIALIZATION OF SPACE STATION – Requires a report from NASA that identifies and examines the opportunities for commercial ventures to play a role in Space Station activities; the potential cost savings from using commercial ventures; and the policies that the NASA Administrator is advancing to encourage commercial opportunities.
SECTION 102 COMMERCIAL SPACE LAUNCH AMENDMENTS – Gives the Office of Commercial Space Transportation authority to license reentry activities; requires the Secretary of Transportation to issue regulations related to obtaining a license; and requires the Secretary of Transportation to submit an annual report on (1) the licensing activities for space transportation vehicles and (2) the performance of the Office of Commercial Space Transportation.
SECTION 103 LAUNCH VOUCHER DEMONSTRATION PROGRAM – Section 504 of the FY93 National Aeronautics and Space Administration Act (P.L. 102-588) is amended by striking out outdated references to dates and offices.
SECTION 104 PROMOTION OF UNITED STATES GLOBAL POSITIONING SYSTEM STANDARDS – Reaffirms U.S. policy to make the U.S. Global Positioning System (GPS) the world standard and to continue the operation of GPS on a continuous worldwide basis, free of direct user fees.
SECTION 105 ACQUISITION OF SPACE SCIENCE DATA – Encourages NASA to buy space science data from commercial providers. "Space science data" includes scientific data concerning the elemental and mineralogical resources of the moon, asteroids, planets and their moons, and comets.
SECTION 106 ADMINISTRATION OF COMMERCIAL SPACE CENTERS – Requires the Administrator to administer the Commercial Space Center program from NASA headquarters.

TITLE II - REMOTE SENSING

SECTION 201 LAND REMOTE SENSING POLICY ACT OF 1992 AMENDMENTS – Reaffirms that Congress expects the national security concerns and international obligations of the U.S. to be protected as the commercial remote sensing industry emerges. Updates the Land Remote Sensing Policy Act of 1992 (15 U.S.C. 5601 et seq.). Directs the Office of Science and Technology Policy to submit to Congress the Landsat Management Plan. Requires the Secretary of Commerce to publish a list of requirements for applicants seeking a license to own and operate a remote sensing satellite. Creates a presumption of approval for license applications that comply with title requirements. Prevents the Secretary of Commerce from seeking to enjoin a licensee from entering into a foreign agreement unless the Secretary first transmits a determination to the licensee that such participation is inconsistent with national security or international obligations. Allows the Secretary of Commerce to seek to modify a license and/or terminate operations of commercial remote sensing activities,

thereby giving the Secretary the flexibility to pursue either option or both options at the same time. Restores the Department of Commerce's ability to impose civil penalties on licenses for failing to comply with license terms. Requires the Secretary of Commerce to notify Congress of any action to limit collection or distribution of data. Requires the Secretary to report to Congress any injunctions that it seeks against a U.S. commercial provider. Prohibits the federal government from duplicating U.S. commercial provider activities unless significant savings can be realized or such duplication is necessary for reasons of national security or international obligations. Requires the Secretaries of Defense and State to consult with the Secretary of Commerce regarding license applications and determine whether such applications are consistent with U.S. national security interests and international obligations. Treats the absence of objection from either the Secretary of Defense or State to a license application as confirmation that the application is consistent with U.S national security and international obligations within a specific time period. Encourages the U.S. government to consider providing vouchers for use of U.S. commercial remote sensing services and products to developing nations as a component of U.S. international aid programs.

SECTION 202 ACQUISITION OF EARTH SCIENCE DATA – Encourages NASA to buy Earth remote sensing data from commercial providers and requires a study on how scientific requirements of MTPE can be met by commercial providers.

TITLE III FEDERAL ACQUISITION OF SPACE TRANSPORTATION SERVICES

SECTION 301 REQUIREMENT TO PROCURE COMMERCIAL SPACE TRANSPORTATION SERVICES – Requires the federal government to procure space transportation services from U.S. commercial providers and, to the maximum practicable extent, plan missions to accommodate the space transportation capabilities of U.S. commercial providers. Exceptions to this policy: the payload requires the unique capabilities of the Space Shuttle; U.S. commercial providers cannot provide cost-effective space transportation services when required; the use of space transportation services from U.S. commercial providers poses an unacceptable risk of loss of a unique scientific opportunity; the use of space transportation services from U.S. commercial providers is inconsistent with U.S. national security objectives; it is more cost-effective to launch a payload in conjunction with the test or demonstration of a space transportation vehicle owned by the federal government; or a payload can make use of the available cargo space on a Space Shuttle mission as a secondary payload, and such payload is consistent with specific requirements authorized by the Administrator. Directs only the Secretary of the Air Force or the NASA Administrator to make determinations about when an exception shall be granted. Does not apply to space transportation services and vehicles acquired or owned by the federal government before the enactment date or to contracts for such acquisition or ownership that have been entered into prior to the enactment date.

SECTION 302 ACQUISITION OF SPACE TRANSPORTATION SERVICES – Space transportation services are to be considered a "commercial item" for purposes of acquisition laws and regulations.

SECTION 303 LAUNCH SERVICES PURCHASE ACT OF 1990 AMENDMENTS – Updates the Launch Services Purchase Act of 1990.

H.R. 1702, AS REPORTED BY THE SUBCOMMITTEE ON SPACE ON JUNE 12, 1997

Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Commercial Space Act of 1997".

(b) TABLE OF CONTENTS.—

SEC. 2. DEFINITIONS.

For purposes of this Act—

(1) the term "Administrator" means the Administrator of the National Aeronautics and Space Administration;

(2) the term "commercial provider" means any person providing space transportation services or other space-related activities, primary control of which is held by persons other than Federal, State, local, and foreign governments;

(3) the term "payload" means anything that a person undertakes to transport to, from, or within outer space, or in suborbital trajectory, by means of a space transportation vehicle, but does not include the space transportation vehicle itself except for its components which are specifically designed or adapted for that payload;

(4) the term "space-related activities" includes research and development, manufacturing, processing, service, and other associated and support activities;

(5) the term "space transportation services" means the preparation of a space transportation vehicle and its payloads for transportation to, from, or within outer space, or in suborbital trajectory, and the conduct of transporting a payload to, from, or within outer space, or in suborbital trajectory;

(6) the term "space transportation vehicle" means any vehicle constructed for the purpose of operating in, or transporting a payload to, from, or

within, outer space, or in suborbital trajectory, and includes any component of such vehicle not specifically designed or adapted for a payload;

(7) the term "State" means each of the several States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other commonwealth, territory, or possession of the United States; and

(8) the term "United States commercial provider" means a commercial provider, organized under the laws of the United States or of a State, which is—

(A) more than 50 percent owned by United States nationals; or

(B) a subsidiary of a foreign company and the Secretary of Transportation finds that—

(i) such subsidiary has in the past evidenced a substantial commitment to the United States market through—

(I) investments in the United States in long-term research, development, and manufacturing (including

the manufacture of major components and subassemblies); and

(II) significant contributions to employment in the United States; and

(ii) the country or countries in which such foreign company is incorporated or organized, and, if appropriate, in which it principally conducts its business, affords reciprocal treatment to companies described in subparagraph (A) comparable to that afforded to such foreign company's subsidiary in the United States, as evidenced by—

(I) providing comparable opportunities for companies described in subparagraph (A) to participate in Government sponsored research and development similar to that authorized under this Act;

(II) providing no barriers, to companies described in subparagraph (A) with respect to local investment opportunities, that are not provided to foreign companies in the United States; and

(III) providing adequate and effective protection for the intellectual property rights of companies described in subparagraph (A).

TITLE I—PROMOTION OF COMMERCIAL SPACE OPPORTUNITIES

SEC. 101. COMMERCIALIZATION OF SPACE STATION.

(a) POLICY.—The Congress declares that a priority goal of constructing the International Space Station is the economic development of Earth orbital space. The Congress further declares that free and competitive markets create the most efficient conditions for promoting economic development, and should therefore govern the economic development of Earth orbital space. The Congress further declares that the use of free market principles in operating, servicing, allocating the use of, and adding capabilities to the Space Station, and the resulting fullest possible engagement of commercial providers and participation of commercial users, will reduce Space Station operational costs for all partners and the Federal Government's share of the United States burden to fund operations.

(b) REPORTS.—(1) The Administrator shall deliver to the Committee on Science of the House of Representatives

and the Committee on Commerce, Science, and Transportation of the Senate, within 90 days after the date of the enactment of this Act, a study that identifies and examines—

(A) the opportunities for commercial providers to play a role in International Space Station activities, including operation, use, servicing, and augmentation;

(B) the potential cost savings to be derived from commercial providers playing a role in each of these activities;

(C) which of the opportunities described in subparagraph (A) the Administrator plans to make available to commercial providers in fiscal year 1998 and 1999;

(D) the specific policies and initiatives the Administrator is advancing to encourage and facilitate these commercial opportunities; and

(E) the revenues and cost reimbursements to the Federal Government from commercial users of the Space Station.

(2) The Administrator shall deliver to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, within 180 days after the date of the enactment

of this Act, an independently-conducted market study that examines and evaluates potential industry interest in providing commercial goods and services for the operation, servicing, and augmentation of the International Space Station, and in the commercial use of the International Space Station. This study shall also include updates to the cost savings and revenue estimates made in the study described in paragraph (1) based on the external market assessment.

(3) The Administrator shall deliver to the Congress, no later than the submission of the President's annual budget request for fiscal year 1999, a report detailing how many proposals (whether solicited or not) the National Aeronautics and Space Administration received during calendar year 1997 regarding commercial operation, servicing, utilization, or augmentation of the International Space Station, broken down by each of these four categories, and specifying how many agreements the National Aeronautics and Space Administration has entered into in response to these proposals, also broken down by these four categories.

SEC. 102. COMMERCIAL SPACE LAUNCH AMENDMENTS.

(a) AMENDMENTS.—Chapter 701 of title 49, United States Code, is amended—

(1) in the table of sections—

(A) by amending the item relating to section 70104 to read as follows:

"70104. Restrictions on launches, operations, and reentries.";

(B) by amending the item relating to section 70108 to read as follows:

"70108. Prohibition, suspension, and end of launches, operation of launch sites and reentry sites, and reentries.";

(C) by amending the item relating to section 70109 to read as follows:

"70109. Preemption of scheduled launches or reentries.";

and

(D) by adding at the end the following new items:

"70120. Regulations.
"70121. Report to Congress.".

(2) in section 70101—

(A) by inserting "microgravity research," after "information services," in subsection (a)(3);

(B) by inserting ", reentry," after "launching" both places it appears in subsection (a)(4);

(C) by inserting ", reentry vehicles," after "launch vehicles" in subsection (a)(5);

(D) by inserting "and reentry services" after "launch services" in subsection (a)(6);

(E) by inserting ", reentries," after "launches" both places it appears in subsection (a)(7);

(F) by inserting ", reentry sites," after "launch sites" in subsection (a)(8);

(G) by inserting "and reentry services" after "launch services" in subsection (a)(8);

(H) by inserting "reentry sites," after "launch sites," in subsection (a)(9);

(I) by inserting "and reentry site" after "launch site" in subsection (a)(9);

(J) by inserting ", reentry vehicles," after "launch vehicles" in subsection (b)(2);

(K) by striking "launch" in subsection (b)(2)(A);

(L) by inserting "and reentry" after "conduct of commercial launch" in subsection (b)(3);

(M) by striking "launch" after "and transfer commercial" in subsection (b)(3); and

(N) by inserting "and development of reentry sites," after "launch-site support facilities," in subsection (b)(4);

(3) in section 70102—

(A) by striking "and any payload" and inserting in lieu thereof "or reentry vehicle and any payload from Earth" in paragraph (3);

(B) in paragraph (5)—

(i) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively; and

(ii) by inserting before subparagraph (B), as so redesignated by clause (i) of this subparagraph, the following new subparagraph:

"(A) activities directly related to the preparation of a launch site or payload facility for one or more launches;";

(C) by inserting "or reentry vehicle" after "means of a launch vehicle" in paragraph (8);

(D) by redesignating paragraphs (10), (11), and (12) as paragraphs (14), (15), and (16), respectively;

(E) by inserting after paragraph (9) the following new paragraphs:

"(10) 'reenter' and 'reentry' mean to return or attempt to return, purposefully, a reentry vehicle and its payload, if any, from Earth orbit or from outer space to Earth.

"(11) 'reentry services' means—

"(A) activities involved in the preparation of a reentry vehicle and its payload, if any, for reentry; and

"(B) the conduct of a reentry.

"(12) 'reentry site' means the location on Earth to which a reentry vehicle is intended to return (as defined in a license the Secretary issues or transfers under this chapter).

"(13) 'reentry vehicle' means a vehicle designed to return from Earth orbit or outer space to Earth, or a reusable launch vehicle designed to return from outer space to Earth, substantially intact."; and

(F) by inserting "or reentry services" after "launch services" each place it appears in paragraph (15), as so redesignated by subparagraph (D) of this paragraph;

(4) in section 70103(b)—

(A) by inserting "AND REENTRIES" after "LAUNCHES" in the subsection heading;

(B) by inserting "and reentries" after "commercial space launches" in paragraph (1); and

(C) by inserting "and reentry" after "space launch" in paragraph (2);

(5) in section 70104—

(A) by amending the section designation and heading to read as follows:

"§ 70104. Restrictions on launches, operations, and reentries";

(B) by inserting "or reentry site, or to reenter a reentry vehicle," after "operate a launch site" each place it appears in subsection (a);

(C) by inserting "or reentry" after "launch or operation" in subsection (a)(3) and (4);

(D) in subsection (b)—

(i) by striking "launch license" and inserting in lieu thereof "license";

(ii) by inserting "or reenter" after "may launch"; and

(iii) by inserting "or reentering" after "related to launching"; and

(E) in subsection (c)—

(i) by amending the subsection heading to read as follows: "PREVENTING LAUNCHES AND REENTRIES.—";

(ii) by inserting "or reentry" after "prevent the launch"; and

(iii) by inserting "or reentry" after "decides the launch";

(6) in section 70105—

(A) by inserting "(1)" before "A person may apply" in subsection (a);

(B) by striking "receiving an application" both places it appears in subsection (a) and inserting in lieu thereof "accepting an application in accordance with criteria established pursuant to subsection (b)(2)(D)";

(C) by adding at the end of subsection (a) the following: "The Secretary shall transmit to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a written notice not later than 7 days after any occurrence when a license is not issued within the deadline established by this subsection.

"(2) In carrying out paragraph (1), the Secretary may establish procedures for certification of the safety of launch vehicles, reentry vehicles, safety systems, procedures, services, or personnel that may be used in conducting licensed commercial space launch or reentry activities.";

(D) by inserting "or a reentry site, or the reentry of a reentry vehicle," after "operation of a launch site" in subsection (b)(1);

(E) by striking "or operation" and inserting in lieu thereof ", operation, or reentry" in subsection (b)(2)(A);

(F) by striking "and" at the end of subsection (b)(2)(B);

(G) by striking the period at the end of subsection (b)(2)(C) and inserting in lieu thereof "; and";

(H) by adding at the end of subsection (b)(2) the following new subparagraph:

"(D) regulations establishing criteria for accepting or rejecting an application for a license under this chapter within 60 days after receipt of such application."; and

(I) by inserting ", including the requirement to obtain a license," after "waive a requirement" in subsection (b)(3);

(7) in section 70106(a)—

(A) by inserting "or reentry site" after "observer at a launch site";

(B) by inserting "or reentry vehicle" after "assemble a launch vehicle"; and

(C) by inserting "or reentry vehicle" after "with a launch vehicle";

(8) in section 70108—

(A) by amending the section designation and heading to read as follows:

"§ 70108. Prohibition, suspension, and end of launches, operation of launch sites and reentry sites, and reentries";

and

(B) in subsection (a)—

(i) by inserting "or reentry site, or reentry of a reentry vehicle," after "operation of a launch site"; and

(ii) by inserting "or reentry" after "launch or operation";

(9) in section 70109—

(A) by amending the section designation and heading to read as follows:

"§ 70109. Preemption of scheduled launches or reentries";

(B) in subsection (a)—

(i) by inserting "or reentry" after "ensure that a launch";

(ii) by inserting ", reentry site," after "United States Government launch site";

(iii) by inserting "or reentry date commitment" after "launch date commitment";

(iv) by inserting "or reentry" after "obtained for a launch";

(v) by inserting ", reentry site," after "access to a launch site";

(vi) by inserting ", or services related to a reentry," after "amount for launch services"; and

(vii) by inserting "or reentry" after "the scheduled launch"; and

(C) in subsection (c), by inserting "or reentry" after "prompt launching";

(10) in section 70110—

(A) by inserting "or reentry" after "prevent the launch" in subsection (a)(2); and

(B) by inserting "or reentry site, or reentry of a reentry vehicle," after "operation of a launch site" in subsection (a)(3)(B);

(11) in section 70111—

(A) by inserting "or reentry" after "launch" in subsection (a)(1)(A);

(B) by inserting "and reentry services" after "launch services" in subsection (a)(1)(B);

(C) in subsection (a)(1), by inserting after subparagraph (B) the following:

"The Secretary shall coordinate the establishment of criteria and procedures for determining the priority of competing requests from the private sector and State governments for property and services under this section.";

(D) by inserting "or reentry services" after "or launch services" in subsection (a)(2);

(E) by inserting "or reentry" after "commercial launch" both places it appears in subsection (b)(1);

(F) by inserting "or reentry services" after "launch services" in subsection (b)(2)(C);

(G) by inserting after subsection (b)(2) the following new paragraph:

"(3) The Secretary shall ensure the establishment of uniform guidelines for, and consistent implementation of, this section by all Federal agencies.";

(H) by striking "or its payload for launch" in subsection (d) and inserting in lieu thereof "or reentry vehicle, or the payload of either, for launch or reentry"; and

(I) by inserting ", reentry vehicle," after "manufacturer of the launch vehicle" in subsection (d);

(12) in section 70112—

(A) in subsection (a)(1), by inserting "launch, reentry, or site operator" after "(1) When a";

(B) by inserting "or reentry" after "one launch" in subsection (a)(3);

(C) by inserting "or reentry services" after "launch services" in subsection (a)(4);

(D) in subsection (b)(1), by inserting "launch, reentry, or site operator" after "(1) A";

(E) by inserting "or reentry services" after "launch services" each place it appears in subsection (b);

(F) by inserting "applicable" after "carried out under the" in paragraphs (1) and (2) of subsection (b);

(G) by striking ", Space, and Technology" in subsection (d)(1);

(H) by inserting "OR REENTRIES" after "LAUNCHES" in the heading for subsection (e);

(I) by inserting "or reentry site or a reentry" after "launch site" in subsection (e); and

(J) in subsection (f), by inserting "launch, reentry, or site operator" after "carried out under a";

(13) in section 70113(a)(1) and (d)(1) and (2), by inserting "or reentry" after "one launch" each place it appears;

(14) in section 70115(b)(1)(D)(i)—

(A) by inserting "reentry site," after "launch site,"; and

(B) by inserting "or reentry vehicle" after "launch vehicle" both places it appears;

(15) in section 70117—

(A) by inserting "or reentry site, or to reenter a reentry vehicle" after "operate a launch site" in subsection (a);

(B) by inserting "or reentry" after "approval of a space launch" in subsection (d);

(C) by amending subsection (f) to read as follows:

"(f) LAUNCH NOT AN EXPORT; REENTRY NOT AN IMPORT.—A launch vehicle, reentry vehicle, or payload that is launched or reentered is not, because of the launch or reentry, an export or import, respectively, for purposes of a law controlling exports or imports."; and

(D) in subsection (g)—

(i) by striking "operation of a launch vehicle or launch site," in paragraph (1) and inserting in lieu thereof "reentry, operation of a launch vehicle or reentry vehicle, operation of a launch site or reentry site,"; and

(ii) by inserting "reentry," after "launch," in paragraph (2); and

(16) by adding at the end the following new sections:

"§ 70120. Regulations

"The Secretary of Transportation, within 6 months after the date of the enactment of this section, shall issue regulations to carry out this chapter that include—

"(1) guidelines for industry to obtain sufficient insurance coverage for potential damages to third parties;

"(2) procedures for requesting and obtaining licenses to operate a commercial launch vehicle or reentry vehicle;

"(3) procedures for requesting and obtaining operator licenses for launch or reentry;

"(4) procedures for requesting and obtaining launch site or reentry site operator licenses; and

"(5) procedures for the application of government indemnification.

"§ 70121. Report to Congress

"The Secretary of Transportation shall submit to Congress an annual report to accompany the President's budget request that—

"(1) describes all activities undertaken under this chapter, including a description of the process for the application for and approval of licenses under this chapter and recommendations for legislation that may further commercial launches and reentries; and

"(2) reviews the performance of the regulatory activities and the effectiveness of the Office of Commercial Space Transportation.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a)(6)(B) shall take effect upon the effective date of final regulations issued pursuant to section 70105(b)(2)(D) of title 49, United States Code, as added by subsection (a)(6)(H).

SEC. 103. LAUNCH VOUCHER DEMONSTRATION PROGRAM.

Section 504 of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1993 (15 U.S.C. 5803) is amended—

(1) in subsection (a)—

(A) by striking "the Office of Commercial Programs within"; and

(B) by striking "Such program shall not be effective after September 30, 1995.";

(2) by striking subsection (c); and

(3) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

SEC. 104. PROMOTION OF UNITED STATES GLOBAL POSITIONING SYSTEM STANDARDS.

(a) FINDING.—The Congress finds that the Global Positioning System, including satellites, signal equipment, ground stations, data links, and associated command and control facilities, has become an essential element in civil, scientific, and military space development because of the emergence of a United States commercial industry which provides Global Positioning System equipment and related services.

(b) INTERNATIONAL COOPERATION.—In order to support and sustain the Global Positioning System in a manner that will most effectively contribute to the national security, public safety, scientific, and economic interests of the United States, the Congress encourages the President to—

(1) ensure the operation of the Global Positioning System on a continuous worldwide basis free of direct user fees; and

(2) enter into international agreements that promote cooperation with foreign governments and international organizations to—

(A) establish the Global Positioning System and its augmentations as an acceptable international standard; and

(B) eliminate any foreign barriers to applications of the Global Positioning System worldwide.

SEC. 105. ACQUISITION OF SPACE SCIENCE DATA.

(a) ACQUISITION FROM COMMERCIAL PROVIDERS.—The Administrator shall, to the maximum extent possible and while satisfying the scientific requirements of the National Aeronautics and Space Administration, acquire, where cost effective, space science data from a commercial provider.

(b) TREATMENT OF SPACE SCIENCE DATA AS COMMERCIAL ITEM UNDER ACQUISITION LAWS.—Acquisitions of space science data by the Administrator shall be carried out in accordance with applicable acquisition laws and regulations (including chapters 137 and 140 of title 10, United States Code), except that space science data shall be

considered to be a commercial item for purposes of such laws and regulations (including section 2306a of title 10, United States Code (relating to cost or pricing data), section 2320 of such title (relating to rights in technical data) and section 2321 of such title (relating to validation of proprietary data restrictions)).

(c) DEFINITION.—For purposes of this section, the term "space science data" includes scientific data concerning the elemental and mineralogical resources of the moon, asteroids, planets and their moons, and comets, Earth environmental data obtained through remote sensing observations, and solar storm monitoring.

(d) SAFETY STANDARDS.—Nothing in this section shall be construed to prohibit the Federal Government from requiring compliance with applicable safety standards.

(e) LIMITATION.—This section does not authorize the National Aeronautics and Space Administration to provide financial assistance for the development of commercial systems for the collection of space science data.

SEC. 106. ADMINISTRATION OF COMMERCIAL SPACE CENTERS.

The Administrator shall administer the Commercial Space Center program in a coordinated manner from Na-

tional Aeronautics and Space Administration headquarters.

TITLE II—REMOTE SENSING

SEC. 201. LAND REMOTE SENSING POLICY ACT OF 1992 AMENDMENTS.

(a) FINDINGS.—The Congress finds that—

(1) a robust domestic United States industry in high resolution Earth remote sensing is in the economic, employment, technological, scientific, and national security interests of the United States;

(2) to secure its national interests the United States must nurture a commercial remote sensing industry that leads the world;

(3) the Federal Government must provide a stable business environment for that industry to succeed and fulfill the national interest;

(4) it is the responsibility of the Federal Government to create domestic and international conditions favorable to the health and growth of the United States commercial remote sensing industry; and

(5) it is a fundamental goal of United States policy to support and enhance United States industrial competitiveness in the field of remote sensing, while at the same time protecting the national secu-

rity concerns and international obligations of the United States.

(b) AMENDMENTS.—The Land Remote Sensing Policy Act of 1992 is amended—

(1) in section 2 (15 U.S.C. 5601)—

(A) by amending paragraph (5) to read as follows:

"(5) Commercialization of land remote sensing is a near-term goal, and should remain a long-term goal, of United States policy.";

(B) by striking paragraph (6) and redesignating paragraphs (7) through (16) as paragraphs (6) through (15), respectively; and

(C) in paragraph (11), as so redesignated by subparagraph (B) of this paragraph, by striking "determining the design" and all that follows through "international consortium" and inserting in lieu thereof "ensuring the continuity of Landsat quality data";

(2) in section 101 (15 U.S.C. 5611)—

(A) by inserting the following after subsection (b)(4):

"The Director of the Office of Science and Technology Policy shall, no later than 60 days after the date of the enactment of the Commercial Space Act of 1997, transmit

the management plan to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.";

(B) in subsection (c)—

(i) by inserting "and" at the end of paragraph (6);

(ii) by striking paragraph (7); and

(iii) by redesignating paragraph (8) as paragraph (7); and

(C) in subsection (e)(1)—

(i) by inserting "and" at the end of subparagraph (A);

(ii) by striking ", and" at the end of subparagraph (B) and inserting in lieu thereof a period; and

(iii) by striking subparagraph (C);

(3) in section 201 (15 U.S.C. 5621)—

(A) by inserting "(1)" after "NATIONAL SECURITY.—" in subsection (b);

(B) in subsection (b)(1), as so designated by subparagraph (A) of this paragraph, by striking "No license" and inserting in lieu thereof "Except as provided in paragraph (3), no license";

(C) by adding at the end of subsection (b) the following new paragraphs:

"(2) The Secretary, within 6 months after the date of the enactment of the Commercial Space Act of 1997, shall publish in the Federal Register a complete and specific list of all information required to comprise a complete application for a license under this title. An application shall be considered complete when the applicant has provided all information required by the list most recently published in the Federal Register before the date the application was first submitted. Unless the Secretary has, within 30 days after receipt of an application, notified the applicant of information necessary to complete an application, the Secretary may not deny the application on the basis of the absence of any such information.

"(3) The Secretary shall grant a license under this title to any United States commercial provider (as such term is defined in section 2 of the Commercial Space Act of 1997) whose application is in full compliance with the requirements of this title.";

(D) in subsection (c), by amending the second sentence thereof to read as follows: "If the Secretary has not granted the license within such 120-day period, the Secretary shall inform the applicant, within such period, of any pend-

ing issues and actions required to be carried out by the applicant or the Secretary in order to result in the granting of a license."; and

(E) in subsection (e)(2)(B), by striking "and the importance of promoting widespread access to remote sensing data from United States and foreign systems";

(4) in section 202 (15 U.S.C. 5622)—

(A) by striking "section 506" in subsection (b)(1) and inserting in lieu thereof "section 507";

(B) in subsection (b)(2), by striking "as soon as such data are available and on reasonable terms and conditions" and inserting in lieu thereof "on reasonable terms and conditions, including the provision of such data in a timely manner";

(C) in subsection (b)(6), by striking "any agreement" and inserting in lieu thereof "any significant or substantial agreement relating to land remote sensing"; and

(D) by inserting after paragraph (6) of subsection (b) the following:

"The Secretary may not seek to enjoin a company from entering into a foreign agreement the Secretary receives

notification of under paragraph (6) unless the Secretary has, within 30 days after receipt of such notification, transmitted to the licensee a statement that such agreement is inconsistent with the national security or international obligations of the United States, including an explanation of such inconsistency.";

(5) in section 203(a)(2) (15 U.S.C. 5623(a)(2)), by striking "under this title and" and inserting in lieu thereof "under this title and/or";

(6) in section 204 (15 U.S.C. 5624), by striking "may" and inserting in lieu thereof "shall";

(7) in section 205(c) (15 U.S.C. 5625(c)), by striking "if such remote sensing space system is licensed by the Secretary before commencing operation" and inserting in lieu thereof "if such private remote sensing space system will be licensed by the Secretary before commencing its commercial operation";

(8) by adding at the end of title II the following new section:

"SEC. 206. NOTIFICATION.

"(a) LIMITATIONS ON LICENSEE.—Not later than 30 days after a determination by the Secretary to require a licensee to limit collection or distribution of data from a system licensed under this title, the Secretary shall provide

written notification to Congress of such determination, including the reasons therefor, the limitations imposed on the licensee, and the period during which such limitations apply.

"(b) TERMINATION, MODIFICATION, OR SUSPENSION.—Not later than 30 days after an action by the Secretary to seek an order of injunction or other judicial determination pursuant to section 202(b) or section 203(a)(2), the Secretary shall provide written notification to Congress of such action and the reasons therefor.";

(9) in section 301 (15 U.S.C. 5631)—

(A) by inserting ", that are not being commercially developed" after "and its environment" in subsection (a)(2)(B); and

(B) by adding at the end the following new subsection:

"(d) DUPLICATION OF COMMERCIAL SECTOR ACTIVITIES.—The Federal Government shall not undertake activities under this section which duplicate activities available from the United States commercial sector, unless such activities would result in significant cost savings to the Federal Government, or are necessary for reasons of national security or international obligations.";

(10) in section 302 (15 U.S.C. 5632)—

(A) by striking "(a) GENERAL RULE.—";

(B) by striking ", including unenhanced data gathered under the technology demonstration program carried out pursuant to section 303," and inserting in lieu thereof "that is not otherwise available from the commercial sector"; and

(C) by striking subsection (b);

(11) by repealing section 303 (15 U.S.C. 5633);

(12) in section 401(b)(3) (15 U.S.C. 5641(b)(3)), by striking ", including any such enhancements developed under the technology demonstration program under section 303,";

(13) in section 501(a) (15 U.S.C. 5651(a)), by striking "section 506" and inserting in lieu thereof "section 507";

(14) in section 502(c)(7) (15 U.S.C. 5652(c)(7)), by striking "section 506" and inserting in lieu thereof "section 507"; and

(15) in section 507 (15 U.S.C. 5657)—

(A) by amending subsection (a) to read as follows:

"(a) RESPONSIBILITY OF THE SECRETARY OF DEFENSE.—The Secretary shall consult with the Secretary of Defense on all matters under this section affecting national security. The Secretary of Defense shall be respon-

sible for determining those conditions, consistent with this Act, necessary to meet national security concerns of the United States, and for notifying the Secretary promptly of such conditions. Not later than 180 days after the date of the enactment of the Commercial Space Act of 1997, the Secretary of Defense shall publish in Commerce Business Daily, for the purpose of soliciting comments, notice of all national security concerns that pertain to the licensing of private remote sensing space systems. Not later than 60 days after receiving a request from the Secretary, the Secretary of Defense shall notify the Secretary and the licensee of, and describe in detail, any specific national security concerns of the United States that the Secretary of Defense determines are an appropriate reason for delaying, modifying, or rejecting a license application. The Secretary of Defense shall concurrently recommend to the Secretary any conditions for a license issued under title II, consistent with this Act, that the Secretary of Defense considers necessary to secure the national security concerns of the United States. If no such notification has been received by the Secretary within such 60-day period, the Secretary shall deem activities proposed in the license application to be consistent with the protection of the national security of the United States.";

(B) by striking subsection (b)(1) and (2) and inserting in lieu thereof the following:

"(b) RESPONSIBILITY OF THE SECRETARY OF STATE.—(1) The Secretary shall consult with the Secretary of State on all matters under this section affecting international obligations of the United States. The Secretary of State shall be responsible for determining those conditions, consistent with this Act, necessary to meet international obligations of the United States and for notifying the Secretary promptly of such conditions. Not later than 180 days after the date of the enactment of the Commercial Space Act of 1997, the Secretary of State shall publish in Commerce Business Daily, for the purpose of soliciting comments, notice of all international obligations of the United States that pertain to the licensing of private remote sensing space systems. Not later than 60 days after receiving a request from the Secretary, the Secretary of State shall notify the Secretary and the licensee of, and describe in detail, any specific international obligations of the United States that the Secretary of State determines are an appropriate reason for delaying, modifying, or rejecting a license application. The Secretary of State shall concurrently recommend to the Secretary any conditions for a license issued under title II, consistent with this Act, that the Secretary of State considers necessary to secure

the international obligations of the United States. If no such notification has been received by the Secretary within such 60-day period, the Secretary shall deem activities proposed in the license application to be consistent with the international obligations of the United States.

"(2) Appropriate United States Government agencies are authorized and encouraged to provide to developing nations, as a component of international aid, resources for purchasing remote sensing data, training, and analysis from United States commercial providers."; and

(C) in subsection (d), by striking "Secretary may require" and inserting in lieu thereof "Secretary shall, where appropriate, require".

SEC. 202. ACQUISITION OF EARTH SCIENCE DATA.

(a) ACQUISITION.—For purposes of meeting Government goals for Mission to Planet Earth, the Administrator shall, to the maximum extent possible and while satisfying the scientific requirements of the National Aeronautics and Space Administration, acquire, where cost-effective, space-based and airborne Earth remote sensing data, services, distribution, and applications from a commercial provider.

(b) TREATMENT AS COMMERCIAL ITEM UNDER ACQUISITION LAWS.—Acquisitions by the Administrator of

the data, services, distribution, and applications referred to in subsection (a) shall be carried out in accordance with applicable acquisition laws and regulations (including chapters 137 and 140 of title 10, United States Code), except that such data, services, distribution, and applications shall be considered to be a commercial item for purposes of such laws and regulations (including section 2306a of title 10, United States Code (relating to cost or pricing data), section 2320 of such title (relating to rights in technical data) and section 2321 of such title (relating to validation of proprietary data restrictions)).

(c) STUDY.—(1) The Administrator shall conduct a study to determine the extent to which the baseline scientific requirements of Mission to Planet Earth can be met by commercial providers, and how the National Aeronautics and Space Administration will meet such requirements which cannot be met by commercial providers.

(2) The study conducted under this subsection shall—

(A) make recommendations to promote the availability of information from the National Aeronautics and Space Administration to commercial providers to enable commercial providers to better meet the baseline scientific requirements of Mission to Planet Earth;

(B) make recommendations to promote the dissemination to commercial providers of information on advanced technology research and development performed by or for the National Aeronautics and Space Administration; and

(C) identify policy, regulatory, and legislative barriers to the implementation of the recommendations made under this subsection.

(3) The results of the study conducted under this subsection shall be transmitted to the Congress within 6 months after the date of the enactment of this Act.

(d) SAFETY STANDARDS.—Nothing in this section shall be construed to prohibit the Federal Government from requiring compliance with applicable safety standards.

(e) ADMINISTRATION AND EXECUTION.—This section shall be carried out as part of the Commercial Remote Sensing Program at the Stennis Space Center.

TITLE III—FEDERAL ACQUISITION OF SPACE TRANSPORTATION SERVICES

SEC. 301. REQUIREMENT TO PROCURE COMMERCIAL SPACE TRANSPORTATION SERVICES.

(a) IN GENERAL.—Except as otherwise provided in this section, the Federal Government shall acquire space

transportation services from United States commercial providers whenever such services are required in the course of its activities. To the maximum extent practicable, the Federal Government shall plan missions to accommodate the space transportation services capabilities of United States commercial providers.

(b) EXCEPTIONS.—The Federal Government shall not be required to acquire space transportation services under subsection (a) if, on a case-by-case basis, the Administrator or, in the case of a national security issue, the Secretary of the Air Force, determines that—

(1) a payload requires the unique capabilities of the space shuttle;

(2) cost effective space transportation services that meet specific mission requirements would not be reasonably available from United States commercial providers when required;

(3) the use of space transportation services from United States commercial providers poses an unacceptable risk of loss of a unique scientific opportunity;

(4) the use of space transportation services from United States commercial providers is inconsistent with national security objectives;

(5) it is more cost effective to transport a payload in conjunction with a test or demonstration of a space transportation vehicle owned by the Federal Government; or

(6) a payload can make use of the available cargo space on a Space Shuttle mission as a secondary payload, and such payload is consistent with the requirements of research, development, demonstration, scientific, commercial, and educational programs authorized by the Administrator.

(c) DELAYED EFFECT.—Subsection (a) shall not apply to space transportation services and space transportation vehicles acquired or owned by the Federal Government before the date of the enactment of this Act, or with respect to which a contract for such acquisition or ownership has been entered into before such date.

(d) HISTORICAL PURPOSES.—This section shall not be construed to prohibit the Federal Government from acquiring, owning, or maintaining space transportation vehicles solely for historical display purposes.

SEC. 302. ACQUISITION OF SPACE TRANSPORTATION SERVICES.

(a) TREATMENT OF SPACE TRANSPORTATION SERVICES AS COMMERCIAL ITEM UNDER ACQUISITION LAWS.—Acquisitions of space transportation services by

the Federal Government shall be carried out in accordance with applicable acquisition laws and regulations (including chapters 137 and 140 of title 10, United States Code), except that space transportation services shall be considered to be a commercial item for purposes of such laws and regulations (including section 2306a of title 10, United States Code (relating to cost or pricing data), section 2320 of such title (relating to rights in technical data) and section 2321 of such title (relating to validation of proprietary data restrictions)).

(b) SAFETY STANDARDS.—Nothing in this section shall be construed to prohibit the Federal Government from requiring compliance with applicable safety standards.

SEC. 303. LAUNCH SERVICES PURCHASE ACT OF 1990 AMENDMENTS.

The Launch Services Purchase Act of 1990 (42 U.S.C. 2465b et seq.) is amended—

(1) by striking section 202;

(2) in section 203—

(A) by striking paragraphs (1) and (2); and

(B) by redesignating paragraphs (3) and (4) as paragraphs (1) and (2), respectively;

(3) by striking sections 204 and 205; and

(4) in section 206—

(A) by striking "(a) COMMERCIAL PAYLOADS ON THE SPACE SHUTTLE.—"; and

(B) by striking subsection (b).

Chairman SENSENBRENNER. I will ask that the members proceed with the amendments in the order on the roster.

Amendment No. 1 is an en bloc amendment which I have which the Clerk will report.

Ms. SCHWARTZ. Amendments to H.R. 1702 offered by Mr. Sensenbrenner.

Chairman SENSENBRENNER. Without objection, the amendments will be considered en bloc and considered as read.

Hearing none, so ordered.

[An explanation of the en bloc amendment and the text of the amendment follow:]

Explanation of Chairman Sensenbrenner's En Bloc Amendment
Science Committee Markup of H.R. 1702, the Commercial Space Act of 1997
June 18, 1997

1. Section 102 – (Commercial Space Launch Amendments) Adds to the definition of "launch" to clarify that launch includes pre-launch activities taking place at a U.S. launch site. These pre-launch activities may take place at a different U.S. launch site from where the launch actually occurs.
2. Section 102 (Commercial Space Launch Amendments) Extends the timeframe from 7 to 30 days in which the Department of Transportation is to notify the Committee that a license has not been issued within the established deadline.
3. Section 102 (Commercial Space Launch Amendments) Changes the provision on safety certification to safety approvals to provide more flexibility to the Department of Transportation and industry.
4. Section 102 (Commercial Space Launch Amendments) Deletes a requirement that the Secretary of Transportation coordinate establishment of criteria for determining the priority of competing requests for excess property.
5. Section 102 (Commercial Space Launch Amendments) Deletes references to "site operators" in the section on liability insurance.
6. Section 102 (Commercial Space Launch Amendments) Amends the Regulations section to give the Secretary of Transportation 9 months instead of 6 months, after the date of enactment, to issue regulations on procedures to obtain launch licenses, launch site operator licenses, guidelines for industry and state governments to obtain sufficient insurance coverage, and procedures for the application of government indemnification. This portion of the amendment also separates reentry licenses and reentry site operator licenses and requires that the Secretary of Transportation issue a notice of proposed rulemaking for these licenses within 6 months after the date of enactment.
7. Section 105 (Acquisition of Space Science Data) Deletes reference to Earth environmental data which is covered by Section 202.
8. Section 201 (Remote Sensing) Amends a finding to clarify that the Federal Government's role is to provide policy and regulations that promote a stable business environment.
9. Section 201 (Remote Sensing) Delete an outdated requirement that OSTP transmit a management plan to Congress.
10. Section 201 (Remote Sensing) Deletes a provision that creates a presumption of approval for license applications when they are in full compliance with the requirements of the law and amends the related section so that the Secretary of Commerce shall grant a license if he determines that the application complies with several requirements.
11. Section 201 (Remote Sensing) Delete references to "U.S." commercial providers.
12. Section 201 (Remote Sensing) Technical change to ensure that the Departments of Defense and State consult with the Secretary of Commerce on national security concerns and international obligations, respectively, that relate to Title II Licensing of Private Remote Sensing Space Systems.

AMENDMENTS TO H.R. 1702

OFFERED BY MR. SENSENBRENNER

Page 10, lines 1 through 3, amend subparagraph (A) to read as follows:

(A) in paragraph (3)—

(i) by striking "and any payload" and inserting in lieu thereof "or reentry vehicle and any payload from Earth";

(ii) by striking the period at the end of subparagraph (C) and inserting in lieu thereof a comma; and

(iii) by adding after subparagraph (C) the following:

"including activities involved in the preparation of a launch vehicle or payload for launch, when those activities take place at a launch site in the United States.";

Page 13, line 16, strike "7 days" and insert in lieu thereof "30 days".

Page 13, lines 20 through 22, strike "certification of the safety of launch vehicles, reentry vehicles, safety systems, procedures" and insert in lieu thereof "safety approvals of launch vehicles, reentry vehicles, safety systems, processes".

Page 17, lines 1 through 6, strike subparagraph (C).

Page 17, lines 7 through 23, redesignate subparagraphs (D) through (I) as subparagraphs (C) through (H), respectively.

Page 18, line 3, strike ", reentry, or site operator" and insert in lieu thereof "or reentry".

Page 18, line 10, strike ", reentry, or site operator" and insert in lieu thereof "or reentry".

Page 19, lines 1 and 2, strike ", reentry, or site operator" and insert in lieu thereof "or reentry".

Page 20, line 12, strike "The Secretary of Transportation, within 6 months" and insert lieu thereof "(a) IN GENERAL.—The Secretary of Transportation, within 9 months".

Page 20, line 15, insert "and State governments" after "industry".

Page 20, lines 19 and 20, strike "operate a commercial launch vehicle or reentry vehicle" and insert in lieu thereof "launch a commercial launch vehicle".

Page 20, line 22, strike "or reentry".

Page 20, line 24, strike "or reentry site".

Page 21, after line 2, insert the following new subsection:

"(b) REENTRY.—The Secretary of Transportation, within 6 months after the date of the enactment of this section, shall issue a notice of proposed rulemaking to carry out this chapter that includes—

"(1) procedures for requesting and obtaining licenses to reenter a reentry vehicle;

"(2) procedures for requesting and obtaining operator licenses for reentry; and

"(3) procedures for requesting and obtaining reentry site operator licenses.

Page 24, lines 10 through 12, strike "Earth environmental data obtained through remote sensing observations,".

Page 25, line 14, insert "policy and regulations that promote" after "must provide".

Page 26, line 21, through page 27, line 3, strike subparagraph (A).

Page 27, lines 4 and 10, redesignate subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

Page 27, lines 20 through 24, amend subparagraph (B) to read as follows:

(B) in subsection (b)(1), as so redesignated by subparagraph (A) of this paragraph, by striking "No license shall be granted by the Secretary unless the Secretary determines in writing that the applicant will comply" and inserting in lieu thereof "The Secretary shall grant a license if the Secretary determines that the activities proposed in the application are consistent";

Page 28, line 2, strike "paragraphs" and insert in lieu thereof "paragraph".

Page 28, lines 16 through 20, strike paragraph (3).

Page 32, line 24, strike "this section" and insert in lieu thereof "title II".

Page 34, line 5, strike "this section" and insert in lieu thereof "title II".

Page 35, line 10, strike "United States".

Chairman SENSENBRENNER. The members of the Committee have in front of them a detailed explanation of the en bloc amendment. This amendment represents an attempt to deal with many of the concerns that have been raised by NASA and the Departments of Commerce, Defense, State and Transportation.

We have also worked to resolve issues that have been raised by Democrats and Republicans on this Committee. The amendment does not represent the end of our work on this bill. I believe that the Committee has made a good-faith effort to deal with the numerous concerns that have been raised by the Administration. What I want from this process is an agreement with the Administration on what the major concerns are, how to address those concerns and whether addressing the major concerns will result in White House support for the bill.

The amendment makes several changes to the Commercial Space Launch amendments to address concerns raised by the Department of Transportation and industry. It also makes several changes to Section 201, the amendments to the Land Remote Sensing Policy Act of 1992 to accommodate concerns raised by the Administration. This amendment contains changes that were worked out between Republicans and Democrats on this Committee and the Administration and it deserves support.

I would point out that in every member's packet there is a list of the 12 different items of the bill that are amended. I do not believe this amendment to be controversial, and yield back the balance of my time.

The gentleman from California.

Mr. BROWN of California. Mr. Chairman, I join in supporting your en block amendments. I think they are constructive and provide some useful improvements to the bill. As I have indicated earlier, my problem is with the fact that there are still some unaddressed objections which I think we will ultimately need to address from the Administration.

I ask unanimous consent to put into the record three letters from the Defense, State and Justice Departments with regard to their problems.

Chairman SENSENBRENNER. Without objection.

[The letters referred to follow:]

GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
1600 DEFENSE PENTAGON
WASHINGTON, D. C. 20301-1600

17 JUN

GENERAL COUNSEL

The Honorable F. James Sensenbrenner, Jr.
Chairman, Committee on Science
U.S. House of Representatives
Washington, D.C. 20515-6301

Dear Mr. Chairman:

This is to advise you of the views of the Department of Defense on H.R. 1702, 105th Congress, a bill "To encourage the development of a commercial space industry in the United States, and for other purposes."

The Department of Defense has serious concerns regarding section 201 of H.R. 1702 which revises section 507(a) of the Land Remote Sensing Policy Act of 1992 (Public Law 102-555; 106 Stat. 4178; 15 U.S.C. 5657). Our concerns are described in detail below.

As revised, section 507(a), "Responsibilities of the Secretary of Defense," reduces those responsibilities from what is set forth in the "Land Remote Sensing Policy Act of 1992" by changing key wording, and by directing the Secretary to take actions that cannot realistically be taken in a rapidly changing world. Implementing the language as directed could put sensitive classified information at great risk.

The first sentence of the referenced section changes the role of the Secretary of Defense in consultations with the Secretary of Commerce by amending the 1992 Act to insert "section" to replace "Act" in the phrase "all matters under this Act." What follows in section 507(a) deals primarily with license approval matters, and the insertion of "section" seems designed to restrict the role of the Secretary of Defense.

The third and fourth sentences would require the Secretary of Defense to publish a notice listing "all of the national security concerns that pertain to the licensing of private remote sensing space systems." What seems to be directed is a listing of every international development, crisis situation, or situation calling for the commitment of U.S. forces that could be viewed as posing risks to the U.S. national security, and which, therefore, might lead to a Secretary of Defense determination that current remote sensing imagery not be distributed or have distribution limited to the U.S. Government. The aim of the Department of Defense would be to prevent distribution of current imagery to potential foreign adversaries. In our view, the listing that would be directed is an impractical requirement, and could not be attempted without the public exposure of very sensitive information.

It is important in our view that the Department of Defense have an active role in supporting development of U.S. commercial remote sensing capabilities in space. We believe the Land Remote Sensing Policy Act of 1992 accurately reflects the responsibilities and prerogatives of the Secretary of Defense. We have strongly supported the developments in this field since passage of the 1992 Act. In fact, we have recommended approval of every license thus far submitted under the 1992 Act, and we have met every deadline set by the Department of Commerce in the licensing process. The

Secretary of Defense has, and must continue to have, a strong role in assuring that such commercial activities do not put the U.S. national security at risk. In our view, the proposed H.R. 1702 could seriously undercut that role.

The Administration has no objection to the fifth sentence of section 507(a), provided that on line 20, the word "recommend" is replaced with "convey his determination." The Administration is developing regulations that are intended to address the Committee's concerns with respect to timeliness, foreign ownership, and the scope of international agreements that would be reviewed. Further, we anticipate that the regulations will provide that applicants for commercial licenses who are denied licenses are provided appropriate explanation.

We also have concerns regarding section 301 of title III, "Federal Acquisition of Space Transportation Services," which as worded applies to all agencies of the Federal Government, including the Department of Defense.

The Department of Defense, through the Air Force, is responsible for space launch as a core competency mission area, which includes funding responsibility to operate and maintain launch bases and ranges. We oppose the concepts in H.R. 1702 restricting the Air Force from obtaining cost data to support contract bids. We see these concepts as inconsistent with our management authorities and responsibilities for space launch.

Restricting the Air Force's ability to obtain cost or pricing data and technical data to support our source selection processes for launch activities would undermine our management responsibilities and authorities as the launch agent for the national security space sector. The Air Force requires insight into contractor cost, pricing, and technical data to manage prudently the development and acquisition of launch capabilities to meet critical military and intelligence sector launch requirements.

We also see no value in requiring the Secretary of the Air Force to make a separate determination for each Department of Defense launch that will not be using a commercial launch service. Deleting the "case-by-case" requirement would allow the Secretary of the Air Force to make a single determination as part of a particular launch contract for a series of missions -- a responsibility the Secretary of the Air Force already exercises in approving source selection decisions for our launches.

We strongly recommend retaining the language of section 507 as it currently appears in the Land Remote Sensing Policy Act of 1992. We also recommend revision of sections 301 and 302 of H.R. 1702.

The Office of Management and Budget advises, that from the standpoint of the Administration's program, there is no objection to the presentation of this report for the consideration of the committee.

Sincerely,

Judith Miller

Judith A. Miller

cc: The Honorable George E. Brown, Jr.
Ranking Democrat

United States Department of State

Washington, D.C. 20520

JUN 10 1997

Dear Mr. Cramer:

We appreciated Chairman Rohrabacher's letter of May 28 inviting the Department of State to testify at the Subcommittee on Space and Aeronautics hearing on June 4 regarding H.R. 1702, which would amend the Land Remote Sensing Policy Act of 1992 ("the Act"). As you know, the Department has played an active role in the past with regard to remote sensing issues and legislation. We deeply regret having been unable to send a witness to the hearing. Unfortunately, our four key policymakers with regard to this issue were all out of the country on the day of the hearing. We look forward to attending any future hearings you might have on this important issue and to continuing to work with you and your staff on H.R. 1702 and other remote sensing matters.

The Act recognizes important authorities of the Secretary of State, and we consider the preservation and implementation of these authorities to be a high priority for the Department. We are satisfied with the current language of the Act, and believe the system set up to implement it is working well in practice and will work even better once the implementing regulations are completed and enter into force.

Having reviewed H.R. 1702, we would like to take this opportunity to express our concerns regarding a number of aspects of it. These concerns are discussed in detail in the attached memorandum.

As the attached memorandum specifies, we believe that several aspects of H.R. 1702 as drafted must be changed in order to avoid severely diminishing the Secretary of State's important authority to act under the Land Remote Sensing Policy Act of 1992 in circumstances where remote sensing would significantly impact international obligations and policies. As currently drafted, H.R. 1702 would shift some of these authorities to Departments which are not responsible for, and do not have expertise regarding, the management of our country's international relations.

We also believe that the current language of H.R. 1702 would severely reduce the ability of the U.S. Government as a whole to deny licenses or imagery distribution agreements or to

The Honorable
Bud Cramer,
Subcommittee on Space and Aeronautics,
Committee on Science,
House of Representatives.

prevent imaging which would damage important national security or foreign policy interests. For example, the draft language would eliminate the U.S. Government's authority to act on foreign policy grounds. But even the U.S. Government's ability to act on the narrower grounds of national security or international obligation would be severely complicated and restricted by the current language of H.R. 1702. Particularly because the Act appears to require the executive branch to go to court in order to enforce termination of licensed operations, we strongly oppose a modification that might raise serious questions about the U.S. Government's authority to impose a black-out -- e.g., over the territory of certain close friends -- to meet exigent circumstances.

H.R. 1702 as currently drafted contains several provisions which we vigorously opposed in the past. It also contains some new language, notably a requirement to publish in advance a list of all international obligations which might require restriction of remote sensing in a future crisis. This provision would require us to make and reflect in published form numerous complex judgments about the nature of commitments contained in a wide range of international agreements, publication of which might significantly undermine our international relations with some of the countries concerned and/or prejudice our ability to act in time of a foreseeable or unforeseeable future crisis.

The concerns expressed above about the current language of H.R. 1702 are shared by other relevant Departments and agencies, particularly the Department of Defense, the Department of Justice, and the Central Intelligence Agency.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report.

I hope this information is useful to you. We look forward to continuing to work together with you on this important issue. Please do not hesitate to call with any questions you might have.

Sincerely,

Barbara Larkin
Assistant Secretary
Legislative Affairs

Enclosure: State Comments.

Comments Regarding H.R. 1702

* Sec. 2(8) This provision of H.R. 1702 would define the term "United States commercial provider" as a commercial provider, organized under U.S. federal or state law, which is either: A) more than 50 percent owned by United States nationals; or B) a subsidiary of a foreign company where the Secretary of Transportation finds that the subsidiary has in the past evidenced a substantial commitment to the United States market. This definition is of particular concern because H.R. 1702 revises sec. 201(b)(3) to state that the Secretary of Commerce "shall grant" a remote sensing license "to any United States commercial provider . . . whose application is in full compliance with the requirements of this title."

-- We urge deletion of subsection B). The combination of sections 2(8)(B) and 201(b)(3) would authorize Commerce (in some cases apparently require it) to grant to a foreign company's subsidary a license to launch and operate a high-resolution remote sensing system that may involve sensitive technologies and collect sensitive defense and intelligence information. It is particularly objectionable, then, that this definition's threshold test for which subsidiaries of foreign companies may receive such licenses does not relate to their commitment to U.S. national security but rather their commitment to the U.S. market. We are concerned lest the foreign parent company's country might come to have interests inimicable to the United States, or that it might become involved in armed conflict with the United States following launch of the satellite.

-- Subsection A) is objectionable for similar reasons. A "United States commercial provider" which is owned more than 50 percent by foreign nationals might actually be "controlled" by foreign nationals. We urge requiring that the provider be controlled by U.S. nationals.

* Sec. 201 (a) These "findings" speak only of commercial interests, with no reference to the damage that could be done to our national security and foreign policy by the indiscriminate availability of high resolution remote sensing imagery, which could be of great intelligence and military value to our adversaries. The Presidential Decision Directive on foreign access to remote sensing space capabilities describes the fundamental goal of our policy as "to support and to enhance U.S. industrial competitiveness in the field of remote sensing capabilities while at the same time protecting U.S. national security and foreign policy interests." The findings contained in section 201(a) contain no such balance. We suggest the addition of a fifth finding: "U.S. national

security and foreign policy interests may be adversely affected by the indiscriminate availability of high resolution remote sensing imagery."

* Sec. 201(b)(1) Current law (201(b)) states that "no license shall be granted by the Secretary [of Commerce] unless the Secretary determines in writing that the applicant will comply with the requirements of the Act, any regulations issued pursuant to this Act, and any applicable international obligations and national security concerns of the United States." H.R. 1702 would strike "no license" and replace it with "except as provided in paragraph 3, no license." Paragraph 3 states that "the Secretary shall grant a license under this title to any United States commercial provider . . . whose application is in full compliance with the requirements of this title." (Paragraph 2 requires publication of a complete and specific list of all information required to comprise a complete application for a license under this title).

The intent of this provision is unclear. But on its face it requires the granting of a license to an applicant whose application is complete even if the Secretary of Commerce is unable to determine that the applicant will in the future comply with the requirements of the Act, its regulations, or any applicable international obligations or security concerns of the United States. Consideration of an application could be reduced to a mere box-checking exercise, with removal of the ability of the Secretary of Commerce to look forward and beyond the face of the application and consider whether the applicant will in the future comply with the law, regulations, international obligations, and national security. We urge deletion of this provision.

* Sec. 202(b)(6) We oppose adding "relating to remote sensing" as a limitation on those agreements which the licensee intends to enter with a foreign nation or entity which must be notified to the Secretary of Commerce. We are concerned that this could be interpreted to mean that agreements relating to, e.g., foreign equity or control of the satellite would not be covered.

* Sec. 202(b)(7) This provision needs to be revised so as to clarify that the USG is authorized to prevent an agreement which it objects to on international policy grounds and that there is authority to change or cancel an agreement after 30 days based on changed circumstances or information about the foreign entity and/or agreement which comes to our attention after the 30 days has passed. It is worth noting that the first blackout of a licensee with regard to Israel was of Eyeglass, in order to address foreign policy concerns raised by its proposed agreement with a Saudi entity. (These concerns had been the subject of an October 1994 letter to Secretary Christopher signed by 65 Senators.)

* Sec. 203(a)(2) Rather than striking "under this title and" and inserting in lieu thereof "under this title or", we suggest "under this title and/or" to clarify that the Secretary may seek a single judicial order to both terminate, modify or suspend licenses and terminate licensed operations on an immediate basis.

* Sec. 203(a)(3) H.R. 1702's revision of this provision would remove from the Department of Commerce the ability to administratively impose penalties for noncompliance with the requirements of licenses or regulations issued under this title, and require that imposition of such penalties await judicial action. We are opposed to reducing Commerce's options for taking swift action against noncompliant licensees, and are concerned that doing so might serve to undermine deterrence.

* Sec. 206(d) This provision may need to be revised to clarify that the USG may undertake remote sensing activities which duplicate activities available from the U.S. commercial sector not only when such duplication would result in significant cost savings to the USG but also when such USG activities are of a sensitive nature or support national security or foreign policy

* Sec. 507(a) We concur with the concerns expressed by DOD and the IC regarding H.R. 1702's revision of this provision. This provision would severely curtail the Secretary of Defense's authorities under the Act, for example those concerning the dissemination of imagery during times of crisis. National security and foreign policy concerns have not adversely affected the issuance of licenses under the 1992 Act. We would therefore recommend that this provision of the 1992 Act not be changed.

*Sec. 507(b) We strongly oppose H.R. 1702's revision of this provision and urge retention of the language contained in current law.

-- We particularly oppose the deletion by H.R. 1702 of the reference in section 507(b) to international "policies of the United States" (the Act's only reference to foreign policy as a grounds for action under it). The statute must clearly preserve our authority to act under the Act for foreign policy reasons. We simply cannot accept a modification that would raise any questions about our authority to impose such a blackout -- e.g., over the territory of certain close friends -- to meet exigent circumstances. Because the Act appears to require the executive branch to go to court in order to enforce termination, modification, or suspension of a license or termination of licensed operations, it is particularly important to ensure that the Act provides clear authority to take the necessary steps during a foreseeable or unforeseeable future crisis.

-- We oppose the diminution of the Secretary of State's authority represented by H.R. 1702's proposed insertion of "all matters under this section" in lieu of "all matters under this Act" in the description of those international matters with

regard to which the Secretary of Commerce shall consult with the Secretary of State.

-- We oppose the requirement which H.R. 1702 would impose to publish "notice of all international obligations of the United States that pertain to the licensing of private remote sensing space systems." Preparation of such a list would require an unavoidably flawed effort to forecast the location and type of international crises which might implicate remote sensing. The provision would require us to make and reflect in published form numerous complex judgements about the nature of commitments contained in a wide range of international agreements, publication of which might significantly undermine our international relations with some of the countries concerned or prejudice our ability to act in time of a foreseeable or unforeseeable crisis.

-- We also oppose the requirement to "describe in detail" to the licensee "any specific international obligations of the United States that the Secretary of State determines are an appropriate reason for delaying, modifying, or rejecting a license application." H.R. 1702 would insert a similar provision in section 507(a) requiring a detailed description of national security concerns. Such determinations might rely on classified information or factors (e.g., an expected surprise attack) which could not be shared with the public without compromising the information.

-- We oppose H.R. 1702's use of the word "recommend" in the following sentence which it would add to section 507(b): "The Secretary of State shall concurrently recommend to the Secretary any conditions for a license issued under title II, consistent with this Act, that the Secretary of State considers necessary to secure the international obligations of the United States." It is the Secretary of State not the Secretary of Commerce who is responsible for, and has the relevant expertise to, the management of our country's foreign affairs. It is completely unacceptable for the Secretary of Commerce to be put in the position of second-guessing the Secretary of State's judgement as to what is necessary to fulfill the international obligations of the United States. (The same analysis applies with respect to "international policies," which we beleive must be added to any description of the Secretary of State's competence regarding license conditions.)

-- We oppose H.R. 1702's proposed change to section 507(b) that would impose a requirement that any conditions for a license that the Secretary of State considers necessary be submitted not later than 60 days after receiving a request from the Secretary of Commerce. This would represent a drastic diminution of the Secretary of State's authority under current law to make license condition determinations sua sponte and at any time. The provision should at least be clarified to merely

limit the time during which State may respond to new applications and not limit State's ability to respond to extant licenses as circumstances change.

-- We oppose the requirement that the Secretary of State is given only 60 days to submit comments on a remote sensing license application. This is an insufficient period of time, particularly because H.R. 1702 does not specify that it is 60 days from when the application is determined to be complete.

U. S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General Washington, D.C. 20530

June 18, 1997

Honorable F. James Sensenbrenner
Chairman
Committee on Science
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

Thank you for the opportunity to present our views on H.R. 1702, the "Commercial Space Act of 1997." The Department of Justice has serious constitutional concerns regarding certain provisions of this bill, insofar as they can readily be construed to require the Executive branch to make detailed disclosure of specific, sensitive information, despite the damage that such disclosures could cause in particular circumstances to the United States' national security or foreign policy interests.

Title II of the bill would make extensive amendments to the Land Remote Sensing Policy Act of 1992 (the "1992 Act"), codified in title 15, chapter 82. The objectives of these amendments are described in subsection 201(a)(1), (4) of the bill, in which Congress finds that "a robust domestic United States industry in high resolution Earth remote sensing is in the . . . interests of the United States," and that the Federal government should "create domestic and international conditions favorable to the health and growth of the United States commercial remote sensing industry."

Under the 1992 Act, as presently codified, the Secretary of Commerce (the "Secretary") is authorized, in consultation with other appropriate Federal agencies, "to license private sector parties to operate private remote sensing space systems for such period as the Secretary may specify and in accordance with the provisions" of the 1992 Act. 15 U.S.C. § 5621(a)(1) (1994). However, "[n]o license shall be granted by the Secretary unless the Secretary determines in writing that the applicant will comply with . . . any applicable international obligations and national security concerns of the United States." Id. § 5621(b). The statute further provides that "[n]o person who is subject to the jurisdiction or control of the United States may, directly or through any subsidiary or affiliate, operate any private remote sensing space system without a license pursuant to section 5621." Id. § 5622(a). Finally, any license issued under the subchapter

must specify, inter alia, that the licensee shall "notify the Secretary of any agreement the licensee intends to enter with a foreign nation, entity, or consortium involving foreign nations or entities." Id. § 5622(b)(6).

Subsection 205(b)(4) of the bill would amend subsection 5622(b) by prohibiting the Secretary from seeking to enjoin a company from entering into a foreign agreement unless the Secretary timely transmits to the licensee "a statement that such agreement is inconsistent with the national security or international obligations of the United States, including an explanation of such inconsistency" (emphasis added).

Other provisions of the bill also appear to require the Executive branch to disclose potentially sensitive information to private sector licensees. In particular, the bill would amend 15 U.S.C. § 5657, which is among the "General Provisions" of the 1992 Act. At present, subsection 5657(a) requires the Secretary and the Landsat Program Management to "consult with the Secretary of Defense on all matters under this chapter affecting national security," and charges the Secretary of Defense with the responsibility "for determining those conditions, consistent with this chapter, necessary to meet national security concerns . . . ." Subsection 5657(b) has a parallel consultation requirement, and a parallel assignment of responsibility, with regard to the Secretary of State, in matters of the "international obligations and policies of the United States." Section 201(b)(15) of the bill would amend both of these existing provisions. As amended, subsection 5657(a) would read in part (emphasis added):

> The Secretary shall consult with the Secretary of Defense on all matters under this section [1] affecting national security. The Secretary of Defense shall be responsible for determining those conditions, consistent with this Act, necessary to meet national security concerns of the United States, and for notifying the Secretary promptly of such conditions. Not later than 180 days after the date of the enactment of the Commercial Space Act of 1997, the Secretary of Defense shall publish in Commerce Business Daily, for the purpose of soliciting comments, notice of all national security concerns that pertain to the licensing of private remote sensing space systems. Not later than 60 days after receiving a request from the Secretary, the Secretary of Defense shall notify the Secretary and the licensee of, and describe in detail, any specific national security concerns of the United States that the Secretary of Defense determines are an

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[1] Probably should read "chapter."

appropriate reason for delaying, modifying, or rejecting a license application.

Similarly, the bill would amend 15 U.S.C. § 5657(b) to require similar notice and disclosure "in detail" by the Secretary of State of "any specific international obligations of the United States that the Secretary of State determines are an appropriate reason for delaying, modifying, or rejecting a license application."

These proposed amendments to the existing licensing provisions of the 1992 Act can readily be understood to require the Secretary of Defense or State, when objecting to licenses or applications, to furnish the private sector licensees or applicants with information "in detail" on "specific" national security or foreign policy matters, even when that information was sensitive and otherwise confidential, despite the damage to United States' interests that disclosure in such circumstances could entail. Similarly, the requirement that the Secretary of Commerce furnish a company with "an explanation" of the Executive's judgment that there is an "inconsistency" between the United States' national security or international obligations and the company's proposed foreign agreement could be understood (although the language of this provision is less pointed) to require such disclosures. Thus, the bill appears to subordinate the United States' interests in maintaining confidentiality in such matters to the legislative policy of promoting a domestic industry in private remote sensing space systems.

So understood, the bill would be unconstitutional in some, perhaps many, applications. The President has special constitutional powers and responsibilities with regard to sensitive national security information. "The President . . . is the 'Commander in Chief of the Army and Navy of the United States.' U.S. Const., Art. II, § 2. His authority to classify and control access to information bearing on national security . . . flows primarily from this constitutional investment of power in the President and exists quite apart from any explicit congressional grant. . . . This Court has recognized the Government's 'compelling interest' in withholding national security information from unauthorized persons in the course of executive business. . . . The authority to protect such information falls on the President as head of the Executive Branch and as Commander in Chief." Dep't of Navy v. Egan, 484 U.S. 518, 527 (1988) (citations omitted). Accordingly, the Executive branch cannot be required to reveal detailed, specific information concerning sensitive national security matters at the behest of a private commercial actor, even when, in the President's judgment, it would be highly detrimental to the national security for such a disclosure to be made.

Similarly, Congress cannot require the disclosure of detailed and specific confidential foreign policy information to private, commercial licensees or applicants, even when such disclosure would seriously impair the President's ability to conduct the Nation's foreign policy. "In the governmental structure created by our Constitution, the Executive is endowed with enormous power in the two related areas of national defense and international relations. . . . [I]t is elementary that the successful conduct of international diplomacy and the maintenance of an effective national defense require both confidentiality and secrecy. Other nations can hardly deal with this Nation in an atmosphere of mutual trust unless they can be assured that their confidences will be kept. And within our own executive departments, the development of considered and intelligent international policies would be impossible if those charged with their formulation could not communicate with each other freely, frankly, and in confidence. In the area of basic national defense the frequent need for absolute secrecy is, of course, self-evident. . . . [I]t is the constitutional duty of the Executive . . . to protect the confidentiality necessary to carry out its responsibilities in the fields of international relations and national defense." New York Times Co. v. United States, 403 U.S. 713, 727-30 (1971) (Stewart, J., concurring).

Accordingly, the Department believes that H.R. 1702, in its present form, poses serious constitutional concerns and should be revised. If we can be of an further assistance on this matter, please do not hesitate to contact us. The Office of Management and Budget has advised us that from the standpoint of the Administration's program, it has no objection to the submission of this letter.

Sincerely,

Andrew Fois
Assistant Attorney General

cc: Honorable George E. Brown, Jr.
Ranking Minority Member
Committee on Science

Mr. BROWN of California. As I said, I will do my very best to help the Chairman resolve this matter in an appropriate way.

Chairman SENSENBRENNER. The gentleman's time has expired.

Is there further discussion on the en bloc amendments?

[No response]

Hearing none, all those in favor will signify by saying aye.

[Chorus of ayes]

Chairman SENSENBRENNER. Opposed, no.

[No response]

The "ayes" have it and the amendments are agreed to.

The next amendment on the roster is by the gentleman from Florida, Doctor Weldon.

Mr. WELDON of Florida. Mr. Chairman, I have an amendment at the desk.

Chairman SENSENBRENNER. The Clerk will report the amendment.

Ms. SCHWARTZ. Amendment to H.R. 1702 offered by Mr. Weldon of Florida. Page 7 after line——

Chairman SENSENBRENNER. Without objection, the amendment is considered as read, and the gentleman from Florida is recognized for 5 minutes.

[The text of the amendment follows:]

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AMENDMENT TO H.R. 1702
OFFERED BY MR. WELDON OF FLORIDA

Page 7, after line 21, insert the following new paragraph:

(4) Each of the studies and reports required by paragraphs (1), (2), and (3) shall include consideration of the potential role of State governments as brokers in promoting commercial participation in the International Space Station program.

Mr. WELDON of Florida. Mr. Chairman, I want to thank you for your diligence in moving this bill forward. Our Nation's future role in space depends a great deal on the ability to develop a viable commercial market in and for space, and H.R. 1702 makes an important step in that direction.

I am committed to working with you as this moves forward to the House Floor, and I encourage our Senate colleagues to take this measure up as soon as possible.

I offer an amendment today that I believe improves the bill. As you know, Mr. Chairman, many States are getting actively involved in the Space Program, and I want to ensure that potential contributions are not overlooked as we promote the commercial space market. Some States, including my on State of Florida are investing State funds in space-related facilities and activities.

Specifically my amendment would ensure that the role of state governments is not ignored as NASA considers the commercialization of the International Space Station. It simply states that all of the studies and reports that are ordered under Section 101 of H.R. 1702 must consider the potential role of state governments as brokers of commercial space work between NASA and the private sector.

You might wonder what this means. The State of Florida, for example, provided the up-front funding for a new facility to store solid rocket motors. The State then leased back the facility to the aerospace company using it, which is paying off the initial investment made by the State. This arrangement enabled the company to make a long-term commercial investment in partnership with the State, an investment they might not have been able to do otherwise.

State governments can provide additional sources of capital and expertise that could be important resources for commercial ventures, and this amendment would simply ensure that they are not overlooked as Space Station commercialization planning takes place. This means that States like California, Virginia, New Mexico, Alabama, Texas, Florida and others that have active roles in the space program will have an opportunity to participate in the exciting commercial space markets of the future.

I urge all of my colleagues to support this amendment.

Chairman SENSENBRENNER. The gentleman's time has expired.

Is there further discussion on the amendment of the gentleman from Florida?

[No response]

Hearing none, all those in favor will signify by saying aye.

[Chorus of ayes]

Chairman SENSENBRENNER. Opposed, no.

[No response]

The "ayes" have it and the amendment is agreed to.

Are there further amendments to the bill?

[No response]

If not, all those in favor of the bill please signify by saying Aye.

[Chorus of Ayes]

Chairman SENSENBRENNER. Opposed, No.

[No response]

The "Ayes" have it and the motion is agreed to.

The Chair now recognizes the gentleman from Alabama for a motion to report the bill.

Mr. ROHRABACHER. Mr. Chairman.

Chairman SENSENBRENNER. For what purpose does the gentleman from California seek recognition?

Mr. ROHRABACHER. I ask for unanimous consent to submit a Department of Commerce letter on H.R. 1702 for the record.

Chairman SENSENBRENNER. Without objection.

[The letter referred to follows:]

GENERAL COUNSEL OF THE
UNITED STATES DEPARTMENT OF COMMERCE
Washington, D.C. 20230

JUN 18 1997

The Honorable F. James Sensenbrenner
Chairman, Committee on Science
House of Representatives
Washington, D.C. 20515-4909

Dear Mr. Chairman:

This is to advise you of the views of the Department of Commerce on H.R. 1702, the Commercial Space Act of 1997.

The need for predictability and policy stability in the emerging field of commercial remote sensing has been the shared desire of this Administration, your committee and those in industry for some time. The Department of Commerce is committed to the Administration's goals of supporting and enhancing US industrial competitiveness in remote sensing space capabilities while at the same time protecting US national security and foreign policy interests.

Predictability in this area is critical to the growth of an emergent industry which needs to plan effectively for its operations as well as to assure potential investors that these systems are commercially viable. It is the goal of the Department and the Administration to provide a policy and regulatory regime which nurtures and fosters the development of this high-skill, high-wage industry, so we do not squander the United States' lead in this area and allow other countries to gain the competitive advantage.

Commercial remote sensing is a real and potentially explosive market. Combined with the commercial uses of GPS, Geographical Information Systems (GIS) and new space-based telecommunications constellations, it represents the future of information technology and promises dramatic changes for our country.

We believe H.R. 1702, which has bi-partisan support, is a good faith and constructive effort by the Committee to achieve the important goal of supporting and enhancing U.S. industrial competitiveness in remote sensing space capabilities. We support this effort. With modifications, principally relating to section 507, we believe the bill could build on the President's remote sensing policy of 1994 and the important Congressional groundwork laid in the Land Remote Sensing Policy Act of 1992. We will continue to work closely with you and the Committee on this important piece of legislation.

The Office of Management and Budget advises, that from the standpoint of the Administration's program, there is no objection to the presentation of this report for the consideration of the committee.

Sincerely,

Andrew J. Fineus

Chairman SENSENBRENNER. The gentleman from Alabama, Mr. Cramer.

Mr. CRAMER. Mr. Chairman, I move that the Committee report the bill, H.R. 1702, the Commercial Space Act of 1997, as amended.

Furthermore, I move to instruct the staff to prepare the legislative report, to make technical and conforming amendments and that the Chairman take all the necessary steps to bring the bill before the House for consideration.

Chairman SENSENBRENNER. The Chair notes the presence of a reporting quorum. The question is on the motion of the gentleman from Alabama.

All those in favor will signify by saying aye.

[Chorus of ayes]

Chairman SENSENBRENNER. Opposed, no.

[No response]

The "ayes" have it and the bill is reported.

Without objection, members will have 2 subsequent calendar days in which to submit supplemental, Minority, or additional views on this measure pursuant to Clause 1 of Rule 20 of the Rules of the House of Representatives.

The Committee authorizes the Chairman to offer such motions as may be necessary in the House to go to conference with the Senate on H.R. 1702 or a similar Senate bill.

There being no further business before the Committee, the Chair declares the Committee adjourned and thanks the members for their cooperation.

[The Committee adjourned at 1:33 p.m, subject to the call of the Chair.]

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