

104TH CONGRESS
2D SESSION

H. R. 3936

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

IN THE HOUSE OF REPRESENTATIVES

AUGUST 1, 1996

Mr. WALKER (for himself, Mr. SENSENBRENNER, Mr. LARGENT, Mr. WELDON of Florida, Mr. ROHRBACHER, Mr. HILLEARY, Mr. STOCKMAN, Mr. DAVIS, Mr. CALVERT, Mr. BAKER of California, Mrs. SEASTRAND, and Mr. TIAHRT) introduced the following bill; which was referred to the Committee on Science, and in addition to the Committee on Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

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

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Space Commercialization Promotion Act of 1996”.

6 (b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

TITLE I—PROMOTION OF COMMERCIAL SPACE OPPORTUNITIES

- Sec. 101. Commercialization of space station.
- Sec. 102. Commercial space launch amendments.
- Sec. 103. Exceptions to employment restrictions.
- Sec. 104. Benefits for certain employees transferring from NASA.
- Sec. 105. Promotion of United States Global Positioning System standards.
- Sec. 106. Purchase of space science data.

TITLE II—REMOTE SENSING

- Sec. 201. Land Remote Sensing Policy Act of 1992 amendments.
- Sec. 202. Acquisition of earth remote sensing data.

TITLE III—FEDERAL ACQUISITION OF SPACE TRANSPORTATION SERVICES

- Sec. 301. Requirement to procure commercial space transportation services.
- Sec. 302. Acquisition of space transportation services.
- Sec. 303. Launch Services Purchase Act of 1990 amendments.
- Sec. 304. Use of excess intercontinental ballistic missiles.

1 **SEC. 2. DEFINITIONS.**

2 For purposes of this Act—

3 (1) the term “Administrator” means the Ad-
 4 ministrator of the National Aeronautics and Space
 5 Administration;

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

11 (3) the term “payload” means anything that a
 12 person undertakes to transport to, from, or within
 13 outer space, or in suborbital trajectory, by means of
 14 a space transportation vehicle, but does not include
 15 the space transportation vehicle itself except for its

1 components which are specifically designed or adapt-
2 ed for that payload;

3 (4) the term “space-related activities” includes
4 research and development, manufacturing, process-
5 ing, service, and other associated and support activi-
6 ties;

7 (5) the term “space transportation services”
8 means the preparation of a space transportation ve-
9 hicle and its payloads for transportation to, from, or
10 within outer space, or in suborbital trajectory, and
11 the conduct of transporting a payload to, from, or
12 within outer space, or in suborbital trajectory;

13 (6) the term “space transportation vehicle”
14 means any vehicle constructed for the purpose of op-
15 erating in, or transporting a payload to, from, or
16 within, outer space, or in suborbital trajectory, and
17 includes any component of such vehicle not specifi-
18 cally designed or adapted for a payload;

19 (7) the term “State” means each of the several
20 States of the Union, the District of Columbia, the
21 Commonwealth of Puerto Rico, the Virgin Islands,
22 Guam, American Samoa, the Commonwealth of the
23 Northern Mariana Islands, and any other common-
24 wealth, territory, or possession of the United States;

1 (8) the term “streamlining activities” means
2 management reforms which are designed to increase
3 efficiencies in operations and personnel, principally
4 through consolidation of agency activities and migra-
5 tion of such efforts to the private sector; and

6 (9) the term “United States commercial pro-
7 vider” means a commercial provider, organized
8 under the laws of the United States or of a State,
9 which is—

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

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

14 (i) such subsidiary has in the past evi-
15 denced a substantial commitment to the
16 United States market through—

17 (I) investments in the United
18 States in long-term research, develop-
19 ment, and manufacturing (including
20 the manufacture of major components
21 and subassemblies); and

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

24 (ii) the country or countries in which
25 such foreign company is incorporated or

1 organized, and, if appropriate, in which it
2 principally conducts its business, affords
3 reciprocal treatment to companies de-
4 scribed in subparagraph (A) comparable to
5 that afforded to such foreign company's
6 subsidiary in the United States, as evi-
7 denced by—

8 (I) providing comparable oppor-
9 tunities for companies described in
10 subparagraph (A) to participate in
11 Government sponsored research and
12 development similar to that authorized
13 under this Act;

14 (II) providing no barriers to com-
15 panies described in subparagraph (A)
16 with respect to local investment op-
17 portunities that are not provided to
18 foreign companies in the United
19 States; and

20 (III) providing adequate and ef-
21 fective protection for the intellectual
22 property rights of companies de-
23 scribed in subparagraph (A).

1 **TITLE I—PROMOTION OF COM-**
2 **MERCIAL SPACE OPPORTUNI-**
3 **TIES**

4 **SEC. 101. COMMERCIALIZATION OF SPACE STATION.**

5 (a) **POLICY.**—The Congress declares that a priority
6 goal of constructing the International Space Station is the
7 economic development of Earth orbital space. The Con-
8 gress further declares that the use of free market prin-
9 ciples in operating, allocating the use of, and adding capa-
10 bilities to the Space Station, and the resulting fullest pos-
11 sible engagement of commercial providers and participa-
12 tion of commercial users, will reduce Space Station oper-
13 ational costs for all partners and the Federal Govern-
14 ment’s share of the United States burden to fund oper-
15 ations.

16 (b) **REPORT.**—The Administrator shall deliver to the
17 Congress, within 60 days after the date of the enactment
18 of this Act, a market study that examines the role of com-
19 mercial ventures which could supply, use, service, or aug-
20 ment the International Space Station, the specific policies
21 and initiatives the Administrator is advancing to encour-
22 age these commercial opportunities, the cost savings to be
23 realized by the international partnership from applying
24 commercial approaches to cost-shared operations, and the

1 cost reimbursements to the United States Government
2 from commercial users of the Space Station.

3 **SEC. 102. COMMERCIAL SPACE LAUNCH AMENDMENTS.**

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

6 (1) in the table of sections—

7 (A) by amending the item relating to sec-
8 tion 70104 to read as follows:

“70104. Restrictions on launches, operations, and reentries.”;

9 (B) by amending the item relating to sec-
10 tion 70108 to read as follows:

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

11 (C) by amending the item relating to sec-
12 tion 70109 to read as follows:

“70109. Preemption of scheduled launches or reentries.”;

13 and

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

“70120. Regulations.

“70121. Report to Congress.

“70122. State authority to license commercial spaceports.”.

16 (2) in section 70101—

17 (A) by inserting “microgravity research,”
18 after “information services,” in subsection
19 (a)(3);

20 (B) by inserting “, reentry,” after “launch-
21 ing” both places it appears in subsection (a)(4);

1 (C) by inserting “, reentry vehicles,” after
2 “launch vehicles” in subsection (a)(5);

3 (D) by inserting “and reentry services”
4 after “launch services” in subsection (a)(6);

5 (E) by inserting “, reentries,” after
6 “launches” both places it appears in subsection
7 (a)(7);

8 (F) by inserting “, reentry sites,” after
9 “launch sites” in subsection (a)(8);

10 (G) by inserting “and reentry services”
11 after “launch services” in subsection (a)(8);

12 (H) by inserting “reentry sites,” after
13 “launch sites,” in subsection (a)(9);

14 (I) by inserting “and reentry site” after
15 “launch site” in subsection (a)(9);

16 (J) by inserting “, reentry vehicles,” after
17 “launch vehicles” in subsection (b)(2);

18 (K) by striking “launch” in subsection
19 (b)(2)(A);

20 (L) by inserting “and reentry” after “con-
21 duct of commercial launch” in subsection
22 (b)(3);

23 (M) by striking “launch” after “and trans-
24 fer commercial” in subsection (b)(3); and

1 (N) by inserting “and development of re-
2 entry sites,” after “launch-site support facili-
3 ties,” in subsection (b)(4);

4 (3) in section 70102—

5 (A) by striking “and any payload” and in-
6 serting in lieu thereof “or reentry vehicle and
7 any payload from Earth” in paragraph (3);

8 (B) in paragraph (5)—

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

12 (ii) by inserting before subparagraph
13 (B), as so redesignated by clause (i) of this
14 subparagraph, the following new subpara-
15 graph:

16 “(A) activities directly related to the prep-
17 aration of a launch site or payload facility for
18 one or more launches;”;

19 (C) by inserting “or reentry vehicle” after
20 “means of a launch vehicle” in paragraph (8);

21 (D) by redesignating paragraphs (10)
22 through (12) as paragraphs (14) through (16),
23 respectively;

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

1 “(10) ‘reenter’ and ‘reentry’ mean to return or
2 attempt to return, purposefully, a reentry vehicle
3 and its payload, if any, from Earth orbit or from
4 outer space to Earth.

5 “(11) ‘reentry services’ means—

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

9 “(B) the conduct of a reentry.

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

14 “(13) ‘reentry vehicle’ means a vehicle designed
15 to return from Earth orbit or outer space to Earth,
16 or a reusable launch vehicle designed to return from
17 outer space to Earth, substantially intact.”; and

18 (F) by inserting “or reentry services” after
19 “launch services” each place it appears in para-
20 graph (15), as so redesignated by subparagraph
21 (D) of this paragraph;

22 (4) in section 70103—

23 (A) by striking “The Secretary” in sub-
24 section (a) and inserting in lieu thereof “Except

1 as provided in section 70122, the Secretary”;
2 and

3 (B) in subsection (b)—

4 (i) by inserting “AND REENTRIES AND
5 STATE SPONSORED SPACEPORTS” after
6 “LAUNCHES” in the subsection heading;

7 (ii) by striking “by the private sector”
8 in paragraph (1) and inserting in lieu
9 thereof “and reentries by the private sector
10 and State sponsored spaceports” after
11 “space launches”; and

12 (iii) by inserting “and reentry” after
13 “space launch” in paragraph (2);

14 (5) in section 70104—

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

17 **“§ 70104. Restrictions on launches, operations, and**
18 **reentries”;**

19 (B) by inserting “or reentry site, or to re-
20 enter a reentry vehicle,” after “operate a
21 launch site” each place it appears in subsection
22 (a);

23 (C) by inserting “or reentry” after “launch
24 or operation” in subsection (a)(3) and (4);

25 (D) in subsection (b)—

1 (i) by striking “launch license” and
2 inserting in lieu thereof “license”;

3 (ii) by inserting “or reenter” after
4 “may launch”; and

5 (iii) by inserting “or reentering” after
6 “related to launching”; and

7 (E) in subsection (c)—

8 (i) by amending the subsection head-
9 ing to read as follows: “PREVENTING
10 LAUNCHES AND REENTRIES.—”;

11 (ii) by inserting “or reentry” after
12 “prevent the launch”; and

13 (iii) by inserting “or reentry” after
14 “decides the launch”;

15 (6) in section 70105—

16 (A) by inserting “(1)” before “A person
17 may apply” in subsection (a);

18 (B) by striking “receiving an application”
19 both places it appears in subsection (a) and in-
20 serting in lieu thereof “accepting an application
21 in accordance with criteria established pursuant
22 to subsection (b)(2)(D)”;

23 (C) by inserting at the end of subsection
24 (a) the following: “The Secretary shall submit
25 to the Committee on Science of the House of

1 Representatives and the Committee on Com-
2 merce, Science, and Transportation of the Sen-
3 ate a written notice not later than 7 days after
4 any occurrence when a license is not issued
5 within the deadline established by this sub-
6 section.”;

7 (D) by adding at the end of subsection (a)
8 the following new paragraph:

9 “(2) In carrying out paragraph (1), the Secretary
10 may establish procedures for certification of the safety of
11 launch vehicles, reentry vehicles, safety systems, proce-
12 dures, services, or personnel that may be used in conduct-
13 ing licensed commercial space launch or reentry activi-
14 ties.”;

15 (E) by inserting “or a reentry site, or the
16 reentry of a reentry vehicle,” after “operation
17 of a launch site” in subsection (b)(1);

18 (F) by striking “or operation” and insert-
19 ing in lieu thereof “, operation, or reentry” in
20 subsection (b)(2)(A);

21 (G) by striking “and” at the end of sub-
22 section (b)(2)(B);

23 (H) by striking the period at the end of
24 subsection (b)(2)(C) and inserting in lieu there-
25 of “; and”;

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

3 “(D) regulations establishing criteria for ac-
4 cepting or rejecting an application for a license
5 under this chapter within 60 days after receipt of
6 such application.”; and

7 (J) by inserting “, including the require-
8 ment to obtain a license,” after “waive a re-
9 quirement” in subsection (b)(3);
10 (7) in section 70106(a)—

11 (A) by inserting “or reentry site” after
12 “observer at a launch site”;

13 (B) by inserting “or reentry vehicle” after
14 “assemble a launch vehicle”; and

15 (C) by inserting “or reentry vehicle” after
16 “with a launch vehicle”;
17 (8) in section 70108—

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

20 **“§ 70108. Prohibition, suspension, and end of**
21 **launches, operation of launch sites and**
22 **reentry sites, and reentries”;**

23 and

24 (B) in subsection (a)—

1 (i) by inserting “or reentry site, or re-
2 entry of a reentry vehicle,” after “oper-
3 ation of a launch site”; and

4 (ii) by inserting “or reentry” after
5 “launch or operation”;

6 (9) in section 70109—

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

9 **“§ 70109. Preemption of scheduled launches or reen-**
10 **tries”;**

11 (B) in subsection (a)—

12 (i) by inserting “or reentry” after
13 “ensure that a launch”;

14 (ii) by inserting “, reentry site,” after
15 “United States Government launch site”;

16 (iii) by inserting “or reentry date
17 commitment” after “launch date commit-
18 ment”;

19 (iv) by inserting “or reentry” after
20 “obtained for a launch”;

21 (v) by inserting “, reentry site,” after
22 “access to a launch site”;

23 (vi) by inserting “, or services related
24 to a reentry,” after “amount for launch
25 services”; and

1 (vii) by inserting “or reentry” after
2 “the scheduled launch”; and

3 (C) in subsection (c), by inserting “or re-
4 entry” after “prompt launching”;

5 (10) in section 70110—

6 (A) by inserting “or reentry” after “pre-
7 vent the launch” in subsection (a)(2); and

8 (B) by inserting “or reentry site, or re-
9 entry of a reentry vehicle,” after “operation of
10 a launch site” in subsection (a)(3)(B);

11 (11) in section 70111—

12 (A) by inserting “or reentry” after
13 “launch” in subsection (a)(1)(A);

14 (B) by inserting “and reentry services”
15 after “launch services” in subsection (a)(1)(B);

16 (C) in subsection (a)(1), by inserting after
17 subparagraph (B) the following:

18 “The Secretary shall establish criteria and procedures for
19 determining the priority of competing requests from the
20 private sector and State governments for property and
21 services under this section.”;

22 (D) by inserting “or reentry services” after
23 “or launch services” in subsection (a)(2);

1 (E) by striking “actual costs” in sub-
2 section (b)(1) and inserting in lieu thereof “ad-
3 ditive costs only”;

4 (F) by inserting “or reentry” after “com-
5 mercial launch” both places it appears in sub-
6 section (b)(1);

7 (G) by inserting “or reentry services” after
8 “launch services” in subsection (b)(2)(C);

9 (H) by inserting after subsection (b)(2) the
10 following new paragraph:

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

14 (I) by striking “or its payload for launch”
15 in subsection (d) and inserting in lieu thereof
16 “or reentry vehicle, or the payload of either, for
17 launch or reentry”; and

18 (J) by inserting “, reentry vehicle,” after
19 “manufacturer of the launch vehicle” in sub-
20 section (d);

21 (12) in section 70112—

22 (A) in subsection (a)(1), by inserting
23 “launch, reentry, or site operator” after “(1)
24 When a”;

1 (B) by inserting “or reentry” after “one
2 launch” in subsection (a)(3);

3 (C) by inserting “or reentry services” after
4 “launch services” in subsection (a)(4);

5 (D) in subsection (b)(1), by inserting
6 “launch, reentry, or site operator” after “(1
7 A”;

8 (E) by inserting “or reentry services” after
9 “launch services” each place it appears in sub-
10 section (b);

11 (F) by inserting “applicable” after “car-
12 ried out under the” in paragraphs (1) and (2)
13 of subsection (b);

14 (G) by striking “, Space, and Technology”
15 in subsection (d)(1);

16 (H) by inserting “OR REENTRIES” after
17 “LAUNCHES” in the heading for subsection (e);

18 (I) by inserting “or reentry site or a re-
19 entry” after “launch site” in subsection (e);
20 and

21 (J) in subsection (f), by inserting “launch,
22 reentry, or site operator” after “carried out
23 under a”;

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

4 (14) in section 70115(b)(1)(D)(i)—

5 (A) by inserting “reentry site,” after
6 “launch site,”; and

7 (B) by inserting “or reentry vehicle” after
8 “launch vehicle” both places it appears;

9 (15) in section 70117—

10 (A) by inserting “or reentry site, or to re-
11 enter a reentry vehicle” after “operate a launch
12 site” in subsection (a);

13 (B) by inserting “or reentry” after “ap-
14 proval of a space launch” in subsection (d);

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

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

22 (D) in subsection (g)—

23 (i) by striking “operation of a launch
24 vehicle or launch site,” in paragraph (1)
25 and inserting in lieu thereof “reentry, op-

1 eration of a launch vehicle or reentry vehi-
2 cle, operation of a launch site or reentry
3 site,”; and

4 (ii) by inserting “reentry,” after
5 “launch,” in paragraph (2); and

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

8 **“§ 70120. Regulations**

9 “The Secretary of Transportation, within 6 months
10 after the date of the enactment of this section, shall issue
11 regulations to carry out this chapter that include—

12 “(1) guidelines for industry to obtain sufficient
13 insurance coverage for potential damages to third
14 parties;

15 “(2) procedures for requesting and obtaining li-
16 censes to operate a commercial launch vehicle or re-
17 entry vehicle;

18 “(3) procedures for requesting and obtaining
19 operator licenses for launch or reentry; and

20 “(4) procedures for the application of govern-
21 ment indemnification.

22 **“§ 70121. Report to Congress**

23 “The Secretary of Transportation shall submit to
24 Congress an annual report to accompany the President’s
25 budget request that—

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

7 “(2) reviews the performance of the regulatory
8 activities and the effectiveness of the Office of Com-
9 mercial Space Transportation.

10 **“§ 70122. State authority to license commercial space-**
11 **ports**

12 “(a) STATE AUTHORITY.—If the Secretary of Trans-
13 portation has not issued final regulations governing the
14 application for and granting of Federal licenses for the
15 operation of a launch site under this chapter, a State gov-
16 ernment may carry out this chapter, exercising the author-
17 ity of the Secretary regarding the licensing and monitoring
18 of launch sites within the territory of that State.

19 “(b) FEDERAL CONSULTATION.—A State may not
20 issue a license to operate a launch site under subsection
21 (a) unless—

22 “(1) the Secretary has notified the State that
23 the proposed license does not jeopardize the public
24 health and safety, safety of property, or national se-

1 security or foreign policy interests of the United
2 States; or

3 “(2) 90 days have passed after the State has
4 requested the Secretary to make a determination
5 under paragraph (1), and the Secretary has not re-
6 sponded.

7 “(c) EFFECT OF STATE LICENSE.—The Secretary
8 shall treat a launch site licensed by a State under sub-
9 section (a) as having complied with all Federal require-
10 ments regarding the licensing and operation of a launch
11 site.

12 “(d) CESSATION OF STATE AUTHORITY.—The au-
13 thority of a State to issue a license under subsection (a)
14 shall cease upon the issuance of Federal regulations gov-
15 erning the application for and granting of Federal licenses
16 for the operation of a launch site.”.

17 (b) EFFECTIVE DATE.—The amendments made by
18 subsection (a)(6)(B) shall take effect upon the effective
19 date of final regulations issued pursuant to section
20 70105(b)(2)(D) of title 49, United States Code, as added
21 by subsection (a)(6)(I).

22 **SEC. 103. EXCEPTIONS TO EMPLOYMENT RESTRICTIONS.**

23 (a) GENERAL RULE.—Section 207(a) and (c) of title
24 18, United States Code, and section 27(f)(1) of the Fed-
25 eral Procurement Policy Act (41 U.S.C. 423(f)(1)) shall

1 not apply to employees or former employees of the Na-
2 tional Aeronautics and Space Administration seeking em-
3 ployment with an entity that is awarded a single prime
4 contract for the Space Shuttle or with an organization re-
5 ceiving an award as a result of National Aeronautics and
6 Space Administration streamlining activities.

7 (b) EXCEPTIONS.—Subsection (a) shall not apply to
8 an employee who, while employed with the National Aero-
9 nautics and Space Administration, served in a position of
10 authority with respect to the selection of the organization
11 with which the employee seeks employment for an award.

12 **SEC. 104. BENEFITS FOR CERTAIN EMPLOYEES TRANSFER-**
13 **RING FROM NASA.**

14 (a) ELECTION.—Any employee of the National Aero-
15 nautics and Space Administration who accepts employ-
16 ment with a qualified employer within one year after the
17 award which resulted in the employer becoming a qualified
18 employer, and who is subject to either CSRS or FERS,
19 shall elect to—

20 (1) retain their coverage under either CSRS or
21 FERS, as applicable, in lieu of coverage by the
22 qualified employer's retirement system; or

23 (2) receive a deferred annuity or lump-sum ben-
24 efit payable to a terminated employee under CSRS
25 or FERS, as applicable.

1 Those employees electing under paragraph (2) shall have
2 the option to transfer the balance in their Thrift Savings
3 Plan account to a defined contribution plan under the
4 qualified employer's retirement system, consistent with ap-
5 plicable law and the terms of the qualified employer's de-
6 fined contribution plan.

7 (b) RETIREMENT AND DISABILITY PAYMENTS.—A
8 qualified employer shall transfer to the Civil Service Re-
9 tirement and Disability Fund—

10 (1) such employee deductions and agency con-
11 tributions as are required by sections 8334, 8422,
12 and 8423 of title 5, United States Code, for those
13 employees who elect to retain their coverage under
14 either CSRS or FERS pursuant to subsection
15 (a)(1);

16 (2) such additional agency contributions as are
17 determined necessary by the Office of Personnel
18 Management to pay, in combination with the sums
19 under paragraph (1), the “normal cost” (determined
20 using dynamic assumptions) of retirement benefits
21 for those employees who elect to retain their cov-
22 erage under CSRS or FERS pursuant to subsection
23 (a)(1), with the concept of “normal cost” being used
24 consistent with generally accepted actuarial stand-
25 ards and principles; and

1 (3) such additional amounts, not to exceed 2
2 percent of the aggregate of amounts under para-
3 graphs (1) and (2), as are determined necessary by
4 the Office of Personnel Management to pay the cost
5 of administering retirement benefits for employees
6 who retire from the qualified employer under either
7 CSRS or FERS, for their survivors, and for survi-
8 vors of employees of the qualified employer who die
9 after the award to the qualified employer (which
10 amounts shall be available to the Office of Personnel
11 Management as provided in section 8348(a)(1)(B) of
12 title 5, United States Code).

13 (c) THRIFT SAVINGS FUND PAYMENTS.—A qualified
14 employer shall transfer to the Thrift Savings Fund such
15 employee and agency contributions as are required or au-
16 thorized by sections 8432 and 8351 of title 5, United
17 States Code, for those employees who elect to retain their
18 coverage under CSRS or FERS pursuant to subsection
19 (a)(1).

20 (d) HEALTH BENEFITS.—For those National Aero-
21 nautics and Space Administration employees who accept
22 employment with a qualified employer and who were sub-
23 ject at the time of acceptance of that employment to
24 FEHBP as Federal employees and who elect to retain
25 their coverage under either CSRS or FERS pursuant to

1 subsection (a)(1), it shall be their option as to whether
2 to receive health benefits from a health benefit plan estab-
3 lished by the qualified employer or to continue without
4 interruption their coverage under the FEHBP, in lieu of
5 coverage by the qualified employer's health benefit system.

6 (e) HEALTH BENEFITS PAYMENTS.—A qualified em-
7 ployer shall transfer to the Employees Health Benefits
8 Fund—

9 (1) such employee deductions and agency con-
10 tributions as are required by section 8906(a)
11 through (f) of title 5, United States Code, for those
12 employees who elect to retain their coverage under
13 FEHBP pursuant to subsection (d); and

14 (2) such amounts as are determined necessary
15 by the Office of Personnel Management under sub-
16 section (f) to reimburse the Office of Personnel
17 Management for contributions under section
18 8906(g)(1) of title 5, United States Code, for those
19 employees who elect to retain their coverage under
20 FEHBP pursuant to subsection (d).

21 (f) GOVERNMENT CONTRIBUTIONS.—The amounts
22 required under subsection (e)(2) shall pay the Government
23 contributions for retired employees who retire from the
24 qualified employer under either CSRS or FERS, for survi-
25 vors of such retired employees, and for survivors of em-

1 ployees of the qualified employer, with said amounts pro-
2 rated to reflect only that portion of the total service of
3 such employees and retired persons that was performed
4 as an employee of the qualified employer.

5 (g) DEFINITIONS.—For purposes of this section, the
6 term “qualified employer” means an organization which
7 operates the consolidated Space Shuttle operations con-
8 tract, and any other organization identified by the Admin-
9 istrator as acting in furtherance of streamlining activities.

10 **SEC. 105. PROMOTION OF UNITED STATES GLOBAL POSI-**
11 **TIONING SYSTEM STANDARDS.**

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

20 (b) INTERNATIONAL COOPERATION.—The Congress
21 therefore encourages the President to—

22 (1) undertake a coordinated effort within the
23 executive branch to promote cooperation with foreign
24 governments and international organizations to ad-
25 vance United States interests with respect to the

1 Global Positioning System standards and augmenta-
2 tions; and

3 (2) ensure the operation of the Global Position-
4 ing System on a continuous worldwide basis free of
5 direct user fees.

6 **SEC. 106. PURCHASE OF SPACE SCIENCE DATA.**

7 (a) IN GENERAL.—To the maximum extent possible,
8 while fully satisfying the National Aeronautics and Space
9 Administration’s scientific requirements, the National
10 Aeronautics and Space Administration shall, where cost
11 effective, purchase from the United States private sector
12 space science data. Examples of such data include sci-
13 entific data concerning the elemental and mineralogical re-
14 sources of the moon and the planets, Earth environmental
15 data obtained through remote sensing observations, and
16 solar storm monitoring.

17 (b) COMPETITIVE BIDDING.—(1) Contracts for the
18 purchase of space science data under this section shall be
19 awarded in a process of full, fair, and open competitive
20 bidding.

21 (2) Submission of cost data, either for the purposes
22 of supporting the bid or fulfilling the contract, shall not
23 be required of bidders or awardees of the contract.

24 (3) Reasonable performance specifications, rather
25 than design or construction specifications, shall be used

1 to the maximum extent feasible to define requirements for
2 United States commercial providers with respect to the de-
3 sign, construction, or operation of equipment used in ob-
4 taining space science data under contracts entered into
5 under this section. This subsection shall not be construed
6 to prohibit the Federal Government from requiring com-
7 pliance with applicable safety standards.

8 (4) Contracts under this section shall not provide for
9 the Federal Government to obtain ownership of data not
10 specifically sought by the Federal Government.

11 **TITLE II—REMOTE SENSING**

12 **SEC. 201. LAND REMOTE SENSING POLICY ACT OF 1992**

13 **AMENDMENTS.**

14 The Land Remote Sensing Policy Act of 1992 is
15 amended—

16 (1) in section 2 (15 U.S.C. 5601)—

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

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

22 (B) by striking paragraph (6) and redesign-
23 ating paragraphs (7) through (16) as para-
24 graphs (6) through (15), respectively; and

1 (C) in paragraph (11), as so redesignated
2 by subparagraph (B) of this paragraph, by
3 striking “determining the design” and all that
4 follows through “international consortium” and
5 inserting in lieu thereof “ensuring the continu-
6 ity of Landsat quality data”;

7 (2) in section 101 (15 U.S.C. 5611)—

8 (A) by inserting the following after sub-
9 section (b)(4):

10 “The Director of the Office of Science and Technology
11 Policy shall, no later than 60 days after the date of the
12 enactment of the Space Commercialization Promotion Act
13 of 1996, transmit the management plan to the Committee
14 on Science of the House of Representatives and the Com-
15 mittee on Commerce, Science, and Transportation of the
16 Senate.”;

17 (B) in subsection (c)—

18 (i) by inserting “and” at the end of
19 paragraph (6);

20 (ii) by striking paragraph (7); and

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

23 (C) in subsection (e)(1)—

24 (i) by inserting “and” at the end of
25 subparagraph (A);

1 (ii) by striking “, and” at the end of
2 subparagraph (B) and inserting in lieu
3 thereof a period; and

4 (iii) by striking subparagraph (C);

5 (3) in section 201 (15 U.S.C. 5621)—

6 (A) by inserting “(1)” after “NATIONAL
7 SECURITY.—” in subsection (b);

8 (B) in subsection (b)(1), as so designated
9 by subparagraph (A) of this paragraph, by
10 striking “No license” and inserting in lieu
11 thereof “Except as provided in paragraph (3),
12 no license”;

13 (C) by adding at the end of subsection (b)
14 the following new paragraphs:

15 “(2) The Secretary, within 6 months after the date
16 of the enactment of the Space Commercialization Pro-
17 motion Act of 1996, shall publish in the Federal Register
18 a complete and specific list of all information required to
19 comprise a complete application for a license under this
20 title. An application shall be considered complete when the
21 applicant has provided all information required by the list
22 most recently published in the Federal Register before the
23 date the application was first submitted. Unless the Sec-
24 retary has, within 30 days after receipt of an application,
25 notified the applicant of information necessary to complete

1 an application, the Secretary may not deny the application
2 on the basis of the absence of any such information.

3 “(3) The Secretary shall grant a license under this
4 title to any United States commercial provider (as such
5 term is defined in section 2 of the Space Commercializa-
6 tion Promotion Act of 1996) whose application indicates
7 full compliance with the requirements of this title.”;

8 (D) in subsection (e), by amending the sec-
9 ond sentence thereof to read as follows: “If the
10 Secretary has not granted the license within
11 such 120-day period, the Secretary shall inform
12 the applicant, within such period, of any pend-
13 ing issues and actions required to be carried
14 out by the applicant or the Secretary in order
15 to result in the granting of a license.”; and

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

20 (4) in section 202 (15 U.S.C. 5622)—

21 (A) by striking “section 506” in subsection
22 (b)(1) and inserting in lieu thereof “section
23 507”;

24 (B) in subsection (b)(2), by striking “as
25 soon as such data are available and on reason-

1 able terms and conditions” and inserting in lieu
2 thereof “on reasonable terms and conditions,
3 including the provision of such data in a timely
4 manner and at prevailing market prices”;

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

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

11 “The Secretary may not terminate, modify, or suspend a
12 license issued pursuant to this title on the basis of an
13 agreement the Secretary receives notification of under
14 paragraph (6) unless the Secretary has, within 30 days
15 after receipt of such notification, transmitted to the li-
16 censee a statement that such agreement is inconsistent
17 with the national security or international obligations of
18 the United States, including an explanation of such incon-
19 sistency.”;

20 (5) in section 203 (15 U.S.C. 5623)—

21 (A) in subsection (a)(2), by striking
22 “under this title and” and inserting in lieu
23 thereof “under this title or”;

24 (B) in subsection (a)(3), by striking “pro-
25 vide penalties” and inserting in lieu thereof

1 “seek, in a United States District Court with
2 personal jurisdiction over the licensee, pen-
3 alties”; and

4 (C) in subsection (b), by striking “(a)(3),”;
5 (6) in section 204 (15 U.S.C. 5624), by striking
6 “may” and inserting in lieu thereof “shall”;

7 (7) in section 205(c) (15 U.S.C. 5625(c)), by
8 inserting “commercial” after “Secretary before com-
9 mencing”;

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

12 **“SEC. 206. NOTIFICATION.**

13 “(a) LIMITATIONS ON LICENSEE.—Not later than 30
14 days after a determination by the Secretary to require a
15 licensee to limit collection or distribution of data from a
16 system licensed under this title, the Secretary shall provide
17 written notification to Congress of such determination, in-
18 cluding the reasons therefor, the limitations imposed on
19 the licensee, and the period during which such limitations
20 apply.

21 “(b) TERMINATION, MODIFICATION, OR SUSPEN-
22 SION.—Not later than 30 days after an action by the Sec-
23 retary to seek an order of injunction or other judicial de-
24 termination pursuant to section 203(a)(2), the Secretary

1 shall provide written notification to Congress of such ac-
2 tion and the reasons therefor.”;

3 (9) in section 301 (15 U.S.C. 5631)—

4 (A) by inserting “, that are not being com-
5 mercially developed” after “and its environ-
6 ment” in subsection (a)(2)(B); and

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

9 “(d) DUPLICATION OF COMMERCIAL SECTOR ACTIVI-
10 TIES.—The Federal Government shall not undertake ac-
11 tivities under this section which duplicate activities avail-
12 able from the commercial sector.”;

13 (10) in section 302 (15 U.S.C. 5632)—

14 (A) by striking “(a) GENERAL RULE.—”;

15 (B) by striking “, including unenhanced
16 data gathered under the technology demonstra-
17 tion program carried out pursuant to section
18 303,” and inserting in lieu thereof “that is not
19 otherwise available from the commercial sec-
20 tor”;

21 (C) by striking subsection (b);

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

23 (12) in section 401(b)(3) (15 U.S.C.
24 5641(b)(3)), by striking “, including any such en-

1 hancements developed under the technology dem-
2 onstration program under section 303,”;

3 (13) in section 501(a) (15 U.S.C. 5651(a)), by
4 striking “section 506” and inserting in lieu thereof
5 “section 507”;

6 (14) in section 502(e)(7) (15 U.S.C.
7 5652(e)(7)), by striking “section 506” and inserting
8 in lieu thereof “section 507”;

9 (15) in section 506 (15 U.S.C. 5656)—

10 (A) by inserting “(1)” after “COMMUNICA-
11 TIONS COMMISSION.—” in subsection (a);

12 (B) by inserting at the end of subsection
13 (a) the following new paragraph:

14 “(2) The Federal Communications Commission, with-
15 in 6 months after the date of the enactment of the Space
16 Commercialization Promotion Act of 1996, shall publish
17 in the Federal Register a complete and specific list of all
18 information required to comprise a complete application
19 described in paragraph (1). An application shall be consid-
20 ered complete when the applicant has provided all infor-
21 mation required by the list most recently published in the
22 Federal Register before the date the application was first
23 submitted. Unless the Federal Communications Commis-
24 sion has, within 30 days after receipt of an application,
25 notified the applicant of information necessary to complete

1 an application, the Federal Communications Commission
2 may not deny the application on the basis of the absence
3 of any such information.”; and

4 (C) by adding at the end the following new
5 subsection:

6 “(e) FEES.—The Federal Communications Commis-
7 sion shall ensure that any licensing or other fees that a
8 private remote sensing space system operator subject to
9 the licensing requirements of title II is required to pay
10 such Commission shall be proportional to the cost to the
11 Commission of the radio licensing process for such person
12 relative to the cost to the Commission of licensing other
13 entities subject to the fee. In no event shall such a fee
14 be required in an amount greater than \$5,000 per ground
15 station.”; and

16 (16) in section 507 (15 U.S.C. 5657)—

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

19 “(a) RESPONSIBILITY OF THE SECRETARY OF DE-
20 FENSE.—The Secretary shall consult with the Secretary
21 of Defense on all matters under this Act affecting national
22 security. The Secretary of Defense shall be responsible for
23 determining those conditions, consistent with this Act,
24 necessary to meet national security concerns of the United
25 States, and for notifying the Secretary promptly of such

1 conditions. Not later than 60 days after receiving a re-
2 quest from the Secretary, the Secretary of Defense shall
3 recommend to the Secretary any conditions for a license
4 issued under title II, consistent with this Act, that the Sec-
5 retary of Defense determines are needed to protect the na-
6 tional security of the United States. The Secretary of De-
7 fense shall concurrently transmit such recommendation to
8 the Committee on Science of the House of Representatives
9 and the Committee on Commerce, Science, and Transpor-
10 tation of the Senate. If no such recommendation has been
11 received by the Secretary within such 60-day period, the
12 Secretary shall deem activities proposed in the license ap-
13 plication to be consistent with the protection of the na-
14 tional security of the United States.”;

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

17 “(b) RESPONSIBILITY OF THE SECRETARY OF
18 STATE.—(1) The Secretary shall consult with the Sec-
19 retary of State on all matters under this Act affecting
20 international obligations of the United States. The Sec-
21 retary of State shall be responsible for determining those
22 conditions, consistent with this Act, necessary to meet
23 international obligations of the United States and for noti-
24 fying the Secretary promptly of such conditions. Not later
25 than 60 days after receiving a request from the Secretary,

1 the Secretary of State shall recommend to the Secretary
2 any conditions for a license issued under title II, consist-
3 ent with this Act, that the Secretary of State determines
4 are needed to meet international obligations of the United
5 States. The Secretary of State shall concurrently transmit
6 such recommendation to the Committee on Science of the
7 House of Representatives and the Committee on Com-
8 merce, Science, and Transportation of the Senate. If no
9 such recommendation has been received by the Secretary
10 within such 60-day period, the Secretary shall deem activi-
11 ties proposed in the license application to be consistent
12 with the international obligations and policies of the Unit-
13 ed States.

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

19 (C) in subsection (d), by striking “Sec-
20 retary may require” and inserting in lieu there-
21 of “Secretary shall, where appropriate, re-
22 quire”.

23 **SEC. 202. ACQUISITION OF EARTH REMOTE SENSING DATA.**

24 (a) ACQUISITION.—To the maximum extent possible,
25 while fully satisfying the National Aeronautics and Space

1 Administration's scientific requirements, the Adminis-
2 trator shall, where cost effective, acquire space-based and
3 airborne Earth remote sensing data, services, distribution,
4 and applications provided by the United States private
5 sector to meet Government goals for Mission to Planet
6 Earth.

7 (b) STUDY.—(1) The Administrator shall conduct a
8 study to determine the extent to which the baseline sci-
9 entific requirements of Mission to Planet Earth can be
10 met by the private sector, and how the National Aero-
11 nautics and Space Administration will meet such require-
12 ments which cannot be met by the private sector.

13 (2) The study conducted under this subsection
14 shall—

15 (A) make recommendations to promote the
16 availability of information from the National Aero-
17 nautics and Space Administration to the private sec-
18 tor to enable the private sector to better meet the
19 baseline scientific requirements of Mission to Planet
20 Earth;

21 (B) make recommendations to promote the dis-
22 semination to the private sector of information on
23 advanced technology research and development per-
24 formed by or for the National Aeronautics and
25 Space Administration; and

1 (C) identify policy, regulatory, and legislative
2 barriers to the implementation of the recommenda-
3 tions made under this subsection.

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

7 (c) ADMINISTRATION.—This section shall be carried
8 out as part of the Commercial Remote Sensing Program
9 at the Stennis Space Center.

10 **TITLE III—FEDERAL ACQUI-
11 TION OF SPACE TRANSPOR-
12 TATION SERVICES**

13 **SEC. 301. REQUIREMENT TO PROCURE COMMERCIAL
14 SPACE TRANSPORTATION SERVICES.**

15 (a) IN GENERAL.—Except as otherwise provided in
16 this section, the Federal Government shall acquire space
17 transportation services from United States commercial
18 providers whenever such services are required in the
19 course of its activities. To the maximum extent prac-
20 ticable, the Federal Government shall plan missions to ac-
21 commodate the space transportation services capabilities
22 of United States commercial providers.

23 (b) EXCEPTIONS.—(1) The Federal Government shall
24 not be required to acquire space transportation services
25 under subsection (a) if, on a case-by-case basis, the Ad-

1 administrator or, in the case of a national security issue,
2 the Secretary of Defense, determines that—

3 (A) a payload requires the unique capabilities of
4 the space shuttle;

5 (B) space transportation services that meet spe-
6 cific mission requirements would not be reasonably
7 available from United States commercial providers
8 when required;

9 (C) the use of space transportation services
10 from United States commercial providers poses an
11 unacceptable risk of loss of a unique scientific oppor-
12 tunity;

13 (D) the use of space transportation services
14 from United States commercial providers poses an
15 unacceptable risk to national security objectives; or

16 (E) it is more cost effective to transport a pay-
17 load in conjunction with a test or demonstration of
18 a space transportation vehicle owned by the Federal
19 Government.

20 (2) Determinations under paragraph (1) shall be
21 made by the Administrator or the Secretary of Defense,
22 and shall not be delegated. Each such determination shall
23 be reported in writing to the Committee on Science and
24 other appropriate committees of the House of Representa-
25 tives, and to the Committee on Commerce, Science, and

1 Transportation and other appropriate committees of the
2 Senate, at least 120 days before the acquisition or provi-
3 sion of space transportation services from or by a source
4 other than United States commercial providers.

5 (c) PARTNERSHIPS.—The acquisition of space trans-
6 portation services in connection with a payload with re-
7 spect to which the Federal Government has provided a
8 greater amount of the funding required for construction
9 and operation than any other source, shall be subject to
10 the requirements of this section.

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

17 (e) HISTORICAL PURPOSES.—This section shall not
18 be construed to prohibit the Federal Government from ac-
19 quiring, owning, or maintaining space transportation vehi-
20 cles solely for historical display purposes.

21 **SEC. 302. ACQUISITION OF SPACE TRANSPORTATION SERV-**
22 **ICES.**

23 (a) COMPETITIVE BIDDING.—(1) Contracts for the
24 acquisition of space transportation services by the Federal
25 Government shall be awarded subject to applicable Fed-

1 eral law requiring full, fair, and open competition, includ-
2 ing section 2304 of title 10, United States Code, and sec-
3 tion 311 of the National Aeronautics and Space Act of
4 1958 (42 U.S.C. 2459e).

5 (2) Bidders for a contract for the acquisition by the
6 Federal Government of space transportation services shall
7 not be required to provide cost data for the purpose of
8 supporting such a bid or fulfilling such a contract, except
9 in cases where only one credible bid meeting the require-
10 ments of the solicitation is received.

11 (b) SPECIFICATION SYSTEMS.—Reasonable perform-
12 ance specifications, rather than design or construction
13 specifications, shall be used to the maximum extent fea-
14 sible to define requirements for United States commercial
15 providers bidding to provide or providing space transpor-
16 tation services to the Federal Government. This subsection
17 shall not be construed to prohibit the Federal Government
18 from requiring compliance with applicable safety stand-
19 ards.

20 **SEC. 303. LAUNCH SERVICES PURCHASE ACT OF 1990**
21 **AMENDMENTS.**

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

24 (1) by striking section 202;

25 (2) in section 203—

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

3 (B) by redesignating paragraphs (3) and
4 (4) as paragraphs (1) and (2), respectively;
5 (3) by striking sections 204 and 205; and
6 (4) in section 206—

7 (A) by striking “(a) COMMERCIAL PAY-
8 LOADS ON THE SPACE SHUTTLE.—”; and

9 (B) by striking subsection (b).

10 **SEC. 304. USE OF EXCESS INTERCONTINENTAL BALLISTIC**
11 **MISSILES.**

12 (a) IN GENERAL.—The Federal Government shall
13 not—

14 (1) convert any missile described in subsection
15 (d) to a space transportation vehicle configuration or
16 otherwise use any such missile to place a payload in
17 space; or

18 (2) transfer ownership of any such missile to
19 another person,
20 except as provided in subsection (b) or (c).

21 (b) AUTHORIZED FEDERAL USES.—(1) A missile de-
22 scribed in subsection (d) may be converted for use as a
23 space transportation vehicle by the Federal Government
24 if—

1 (A) except as provided in paragraph (2), at
2 least 120 days before such conversion the agency
3 seeking to use the missile as a space transportation
4 vehicle transmits to the Committee on National Se-
5 curity and the Committee on Science of the House
6 of Representatives, and to the Committee on Armed
7 Services and the Committee on Commerce, Science,
8 and Transportation of the Senate, a report that con-
9 tains—

10 (i) a certification that the use of such mis-
11 sile—

12 (I) would result in significant cost
13 savings to the Federal Government when
14 compared to the cost of acquiring space
15 transportation services from United States
16 commercial providers; and

17 (II) meets all mission requirements of
18 the agency, including performance, sched-
19 ule, and risk requirements; and

20 (ii) comments obtained from United States
21 commercial providers in response to prior public
22 notice published in the Commerce Business
23 Daily;

24 (B) the use of such missile is consistent with
25 international obligations of the United States; and

1 (C) the Secretary of Defense approves of such
2 conversion.

3 (2) The requirement under paragraph (1)(A) that the
4 report described in that subparagraph must be transmit-
5 ted at least 120 days before conversion of the missile shall
6 not apply if the Secretary of Defense determines that com-
7 pliance with that requirement would be inconsistent with
8 meeting immediate national security requirements.

9 (c) AUTHORIZED EDUCATIONAL USES.—(1) A mis-
10 sile described in subsection (d) may be made available for
11 launching a payload owned and operated by an institution
12 of higher education for research or education purposes
13 if—

14 (A) the payload has no functions that will com-
15 pete with commercial applications available from
16 United States commercial providers;

17 (B) the cost of converting and using the missile
18 for such purpose is less than 50 percent of the price
19 United States commercial providers would charge for
20 such purpose;

21 (C) the institution of higher education will pay
22 the costs of such conversion and launch;

23 (D) such conversion and launch will be con-
24 ducted by the institution of higher education or a
25 United States commercial provider; and

1 (E) the Secretary of Defense approves of such
2 conversion and use.

3 (2) For purposes of this subsection, the term “insti-
4 tution of higher education” has the meaning given such
5 term in section 1201(a) of the Higher Education Act of
6 1965.

7 (d) MISSILES REFERRED TO.—The missiles referred
8 to in this section are missiles owned by the United States
9 that were formerly used by the Department of Defense
10 for national defense purposes as intercontinental ballistic
11 missiles and that have been retired from service in compli-
12 ance with international obligations of the United States.

○