

## Calendar No. 891

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# H. R. 5155

[Report No. 98-458]

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### IN THE SENATE OF THE UNITED STATES

APRIL 10 (legislative day, MARCH 26), 1984

Received; read twice and referred to the Committee on Commerce, Science, and  
Transportation

MAY 17 (legislative day, MAY 14), 1984

Reported by Mr. PACKWOOD, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

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## AN ACT

To establish a system to promote the use of land remote-sensing  
satellite data, 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 ~~That this Act may be cited as the "Land Remote-Sensing~~  
4 ~~Commercialization Act of 1984".~~

5 ~~TITLE I—DECLARATION OF FINDINGS,~~  
6 ~~PURPOSES, AND POLICIES~~

7 ~~FINDINGS~~

8 ~~Sec. 101. The Congress finds and declares that—~~

1           (1) the continuous civilian collection and utiliza-  
2           tion of land remote-sensing data from space is of major  
3           benefit in managing the Earth's natural resources and  
4           in planning or conducting many other activities of eco-  
5           nomic importance;

6           (2) the national interest of the United States lies  
7           in maintaining international leadership in civil remote-  
8           sensing and in broadly promoting the beneficial use of  
9           remote-sensing data;

10          (3) land remote-sensing by the Government or pri-  
11          vate parties of the United States affects international  
12          commitments and policies and national security con-  
13          cerns of the United States;

14          (4) the broadest and most beneficial use of land  
15          remote-sensing data is likely to result from maintaining  
16          a policy of nondiscriminatory access to data;

17          (5) use of land remote-sensing data has been in-  
18          hibited by slow market development and by the lack of  
19          assurance of data continuity;

20          (6) the private sector, and in particular the  
21          "value-added" industry, is best suited to develop land  
22          remote-sensing data markets;

23          (7) vigorous, competitive, market-driven private  
24          sector involvement in land remote-sensing can lead to

1 rapid realization of the potential benefits of that tech-  
2 nology;

3 (8) to utilize fully the strengths of the private  
4 sector, any process of commercialization of land  
5 remote-sensing should involve the maximum practica-  
6 ble competition and the minimum (both in duration and  
7 amount) practicable Government subsidy;

8 (9) at the present time, it is unclear that the pri-  
9 vate sector alone will develop a total land remote-sens-  
10 ing system because of the high risk and large capital  
11 expenditures involved;

12 (10) cooperation between the Federal Government  
13 and the private sector can help assure both data conti-  
14 nuity and United States leadership;

15 (11) the time is now appropriate to initiate such  
16 cooperation with phased transition to a fully commer-  
17 cial system;

18 (12) cooperation between Government and the  
19 private sector in civil land remote-sensing should be  
20 structured so as to minimize Government direction and  
21 regulation and maximize private sector involvement;

22 (13) nevertheless, certain Government oversight  
23 must be maintained to assure that private sector activi-  
24 ties are in the national interest and that the interna-



## 1 POLICIES

2 SEC. 103. (a) It shall be the policy of the United States  
3 to preserve its right to acquire and disseminate digital  
4 remote-sensing data.

5 (b) It shall be the policy of the United States that civil-  
6 ian digital remote-sensing data be made available to all po-  
7 tential users on a nondiscriminatory basis.

8 (c) It shall be the policy of the United States both to  
9 commercialize those space remote-sensing functions that  
10 properly lend themselves to private sector operation and to  
11 avoid competition by the Government with such commercial  
12 operations, while continuing to preserve our national securi-  
13 ty, to honor our international obligations, and to retain in the  
14 Government those remote-sensing functions that are essen-  
15 tially of a public service nature.

## 16 DEFINITIONS

17 SEC. 104. For purposes of this Act:

18 (1) The term "digital remote-sensing data" means  
19 the unprocessed and minimally processed signals col-  
20 lected from civil remote-sensing space systems or origi-  
21 nal film products collected from such systems. Such  
22 minimal processing shall be limited to rectification of  
23 instrumental distortions, registration with respect to  
24 features on the Earth, and calibration of spectral re-  
25 sponse. Such term does not include conclusions, manip-

1       ulations, or calculations derived from such signals or  
2       combination of the signals with other data or informa-  
3       tion. Unless otherwise limited, digital remote-sensing  
4       data includes land and ocean sensed data.

5               (2) The term "Secretary" means the Secretary of  
6       Commerce.

7               (3)(A) The term "on a nondiscriminatory basis"  
8       means without preference, bias, or any other special  
9       arrangement regarding delivery, format, financing, or  
10      technical considerations which would favor one buyer  
11      or class of buyers over another.

12              (B) The sale of data is made on a nondiscrimina-  
13      tory basis only if (i) any offer to sell or deliver data is  
14      published in advance in such manner as will ensure  
15      that the offer is equally available to all prospective  
16      buyers; (ii) the system operator has not established or  
17      changed any price, policy, procedure, or other term or  
18      condition in a manner which gives one buyer or class  
19      of buyer de facto favored access to data; and (iii) in a  
20      case where a system operator offers volume discounts,  
21      such discounts are no greater than the demonstrable  
22      reductions in the cost of such sales. The sale of data  
23      on a nondiscriminatory basis does not preclude the  
24      system operator offering discounts other than volume

1 discounts to the extent that such discounts are not in-  
 2 consistent with any other provision of this paragraph.

3 (C) The sale of data on a nondiscriminatory basis  
 4 does not require (i) that a system operator disclose  
 5 names of buyers or their purchases; (ii) that a system  
 6 operator maintain all, or any particular subset of, data  
 7 in a working inventory; or (iii) that a system operator  
 8 expend equal effort in developing all segments of a  
 9 market.

10 (4) The term "Landsat system" means Landsat 1,  
 11 2, 3, 4, and 5, and related ground equipment, systems,  
 12 and facilities, and any successor civil land remote-sens-  
 13 ing satellites operated by the United States Govern-  
 14 ment prior to the commencement of the six-year period  
 15 described in section 302(b)(2).

16 (5) The term "system operator" means a contrac-  
 17 tor under title II or a license holder under title IV.

18 **TITLE II—CONTRACT FOR EXISTING LAND**

19 **REMOTE-SENSING SATELLITE SYSTEM**

20 **CONTRACT REQUIREMENTS**

21 **SEC. 201.** (a) In accordance with the requirements of  
 22 this Act, the Secretary shall, subject to the availability of  
 23 appropriations therefor, contract with a United States private  
 24 sector party (as defined by the Secretary) to market digital  
 25 remote-sensing data generated by the Landsat system. If the

1 Secretary determines that competition for such contract will  
2 promote the policies and purposes of this Act, the Secretary  
3 may accept proposals for such contract which include the op-  
4 eration by such United States private sector party of (1) the  
5 space component of the Landsat system, (2) the related  
6 ground equipment, systems, and facilities, or (3) both such  
7 space component and such related equipment, systems, and  
8 facilities.

9 (b) A contract awarded under subsection (a) shall be  
10 awarded, after competition, in accordance with the conditions  
11 of section 203. Such contract may be reawarded competi-  
12 tively after the practical demise of the space segment of the  
13 Landsat system, as determined by the Secretary.

14 (c) Any contract authorized by subsection (a)—

15 (1) shall not permit the transfer to any contractor  
16 of title to any part or all of the Landsat system; and

17 (2) may specify that the contractor use, and, at  
18 his own expense, maintain, repair, or modify elements  
19 of the Landsat system as the contractor finds necessary  
20 for commercial operations.

21 (d) If, as a result of the competitive process required by  
22 subsection (b), the Secretary receives no proposal which he  
23 finds acceptable under the conditions of this Act, the Secre-  
24 tary shall so certify and fully report his findings to the Con-  
25 gress. Thirty days after so certifying and reporting, the Sec-



1 retary may reopen the competition. If no acceptable propos-  
2 als are received after such subsequent competition, or if the  
3 Secretary decides not to reopen the competition, the Secre-  
4 tary shall so certify and fully report his findings to the Con-  
5 gress. In the event that no acceptable proposal is received,  
6 the Secretary shall continue to operate the Landsat system  
7 and to market data from such system.

8 (e) In defining "United States private sector party" for  
9 purposes of subsection (a), the Secretary may take into ac-  
10 count the citizenship of key personnel, location of assets, for-  
11 eign ownership, control, and influence, and other such  
12 factors.

#### 13 SALE OF DATA

14 SEC. 202. (a) The United States Government shall  
15 retain title to any and all data generated by the Landsat  
16 system. However, after the date of the commencement of the  
17 contract described in section 201(a), the contractor shall be  
18 entitled to revenues from sales of copies of data from the  
19 Landsat system, subject to the conditions specified in sections  
20 601 and 602 of this Act.

21 (b) The contractor may continue to market data previ-  
22 ously generated by the Landsat system after the demise of  
23 the space segment of that system.

1           **CONDITIONS OF COMPETITION FOR CONTRACT**

2           **SEC. 203. (a) The Secretary of Commerce shall, as part**  
3 **of his advertisement for the competition for the contract au-**  
4 **thorized by section 201, identify and publish the international**  
5 **obligations, national security concerns (with appropriate pro-**  
6 **tection of sensitive information), domestic legal consider-**  
7 **ations, and any other standards or conditions which a private**  
8 **contractor shall be required to meet.**

9           **(b) In selecting a contractor under this title, the Secre-**  
10 **tary shall consider—**

11           **(1) ability to market aggressively digital remote-**  
12 **sensing data;**

13           **(2) the best overall financial return to the Govern-**  
14 **ment, including the potential savings to the Govern-**  
15 **ment;**

16           **(3) ability to meet the obligations, concerns,**  
17 **standards, and conditions identified under subsection**  
18 **(a);**

19           **(4) technical competence, including the ability to**  
20 **assure continuity and timeliness of data from the Land-**  
21 **sat system;**

22           **(5) absence of any conflicts of interest which could**  
23 **inhibit nondiscriminatory access to such data;**

24           **(6) ability to effect a smooth transition with the**  
25 **contractor selected under title III of this Act; and**

11

1           ~~(7) such other factors as he deems appropriate.~~

2                           **FOREIGN GROUND STATIONS**

3           **SEC. 204. (a)** The contract under this title shall provide  
4 that the contractor shall act as the agent of the Secretary by  
5 continuing to supply digital remote-sensing data to foreign  
6 ground stations for the life, and according to their terms, of  
7 those agreements between the United States Government  
8 and such foreign ground stations that are in force on the date  
9 of the commencement of the contract.

10           **(b)** Upon the expiration of such agreements, or in the  
11 case of foreign ground stations that have no agreement with  
12 the United States on the date of commencement of the con-  
13 tract, the contract shall provide—

14                   **(1)** that digital remote-sensing data from the  
15 Landsat system shall be made available to foreign  
16 ground stations only by the contractor; and

17                   **(2)** that such data shall be made available on a  
18 nondiscriminatory basis.

19                   **TITLE III—PROVISION OF DATA CONTINUITY**

20                           **DURING TRANSITION PERIOD**

21                                   **PURPOSES AND DEFINITIONS**

22           **SEC. 201. (a)** It is the purpose of this title—

23                   **(1)** to provide, in an orderly manner and with  
24 minimal risk, for a transition between Government op-

1       eration and private, commercial operation of civil land  
2       remote-sensing space systems; and

3               (2) to provide for the continuity of MSS data for  
4       six years after the practical demise of the space seg-  
5       ment of the Landsat system.

6       (b) For purposes of this title—

7               (1) the term “Multi-Spectral Scanner” means the  
8       instrument referred to by that name and carried on the  
9       Landsat 4 and Landsat 5 satellites; and

10              (2) the term “MSS data” means digital remote-  
11       sensing data which, from the point of view of a data  
12       user, are—

13              (A) functionally equivalent to data from the  
14       Multi-Spectral Scanner; and

15              (B) compatible with data and with equipment  
16       used to receive and process data from such  
17       Scanner.

18       **CONTRACT FOR DATA AVAILABILITY AND CONTINUITY**

19       **SEC. 302.** (a) Subject to the availability of appropria-  
20       tions therefor and to the licensing conditions established  
21       under title IV, the Secretary shall, after competition, con-  
22       tract with a United States private sector party (as defined by  
23       the Secretary pursuant to section 201) for the provision by  
24       such party of the capability of generating data of a quality at  
25       least equal to the quality of MSS data and of selling and

1 delivering such data to the Federal Government. The capa-  
2 bility shall include, at a minimum, the capability to generate  
3 and deliver MSS data at the annual volume of Federal usage  
4 during fiscal year 1988, as determined by the Secretary. The  
5 capability may be provided by the contractor using whatever  
6 technologies the contractor may select. In addition, the con-  
7 tractor may make available data of a higher quality or of a  
8 different type than MSS data.

9 (b) The contract authorized by subsection (a)—

10 (1) shall be entered into as soon as practicable, al-  
11 lowing for the competitive procurement process;

12 (2) shall, in accordance with criteria determined  
13 and published by the Secretary, reasonably assure the  
14 provision of the capability described in subsection (a)  
15 for a period of six years, beginning as soon as practica-  
16 ble in order to minimize any interruption of data  
17 availability;

18 (3) shall terminate one year after the expiration of  
19 the six-year period described in paragraph (2);

20 (4) may, subject to section 305 of the Federal  
21 Property and Administrative Services Act of 1949 (41  
22 U.S.C. 255), provide for a payment by the Secretary  
23 to cover a portion of the capital cost of providing such  
24 capability, which may be paid in installments (A) based  
25 on progress prior to the beginning of the six-year

1 period described in paragraph (2), and (B) the sum of  
2 which shall be less than the total cost of procuring the  
3 system required to assure the capability for six years;

4 (5) shall provide that sale of digital remote-sens-  
5 ing data shall be in accordance with the provisions of  
6 section 303 of this title;

7 (6) shall not provide for any guaranteed data pur-  
8 chases by the Federal Government; and

9 (7) may provide that the contractor utilize, on a  
10 space-available basis, civilian Government satellites as  
11 platforms for a civil remote-sensing satellite system,  
12 if—

13 (A) the contractor immediately reimburses  
14 the Government for all related costs incurred with  
15 respect to such utilization, including a reasonable  
16 and proportionate share of fixed, spacecraft, data  
17 transmission, and launch costs; and

18 (B) such utilization would not interfere with  
19 or otherwise in any way compromise the intended  
20 civilian Government missions, as determined by  
21 the agency responsible for the civilian satellite.

22 (c) The contract authorized by subsection (a) shall be  
23 awarded on the basis of—

24 (1) the cost to the Government of the payment  
25 under subsection (b)(4);

1           (2) the reliability, technical competence, and fi-  
2           nancial condition of the contractor;

3           (3) the contractor's ability to develop the remote-  
4           sensing data market;

5           (4) the contractor's ability to supplement basic ca-  
6           pabilities specified in section 302(a) by adding remote-  
7           sensing capabilities (at the contractor's expense and  
8           consistent with national security concerns) which main-  
9           tain United States leadership in remote-sensing;

10          (5) the contractor's ability to meet the conditions  
11          for obtaining a license under title IV;

12          (6) the contractor's ability to provide digital  
13          remote-sensing data on a timely and reliable basis;

14          (7) the contractor's ability to effect a smooth tran-  
15          sition with any contractor selected under title II;

16          (8) the royalty or profit- or revenue-sharing ar-  
17          rangement, or other such financial consideration offered  
18          to the Federal Government; and

19          (9) such other factors as the Secretary deems ap-  
20          propriate.

21          (d) If, as a result of the competitive process required by  
22          subsection (a), the Secretary receives no proposal which he  
23          finds acceptable under the conditions of this Act, the Secre-  
24          tary shall so certify and fully report his findings to the Con-  
25          gress. Thirty days after so certifying and reporting, the Sec-

1 ~~retary may reopen the competition. If no acceptable propos-~~  
2 ~~als are received after such subsequent competition, or if the~~  
3 ~~Secretary decides not to reopen the competition, the Secre-~~  
4 ~~tary shall so certify and fully report his findings to the Con-~~  
5 ~~gress. Ninety days after so certifying and reporting, the Sec-~~  
6 ~~retary is authorized to assure MSS data continuity by pro-~~  
7 ~~curement and operation by the Federal Government of the~~  
8 ~~necessary systems, subject to the availability of appropria-~~  
9 ~~tions therefor. Such procurement and operation may include~~  
10 ~~generation of data of a higher quality than MSS data.~~

11 **SALE OF DATA**

12 ~~SEC. 302. (a) The contractor selected under section 302~~  
13 ~~shall sell data in accordance with the provisions of sections~~  
14 ~~601 and 602 of this Act.~~

15 ~~(b) Any sale of digital remote-sensing data by the con-~~  
16 ~~tractor to Federal agencies shall be on a nondiscriminatory~~  
17 ~~basis, with the additional condition that at least 5 per centum~~  
18 ~~of the price of each such sale shall be rebated to the Govern-~~  
19 ~~ment (and thereby reduce the total net cost to the Govern-~~  
20 ~~ment) as a royalty payment to the United States Treasury.~~  
21 ~~Such royalty payments shall be required during the life of the~~  
22 ~~contract authorized in section 302, or until such time as the~~  
23 ~~cumulative total of such royalty payments equals the value of~~  
24 ~~any payment made to the contractor by the Government~~



1 under section 302(b)(4), whichever first occurs. Data sales to  
2 non-Federal buyers shall not be subject to such a rebate.

3 (e) After the six-year period described in section  
4 302(b)(2), the contractor may continue to sell data and, if  
5 licensed under title IV of this Act, to operate a civil remote-  
6 sensing space system.

#### 7 REPORT

8 SEC. 304. Two years after the date of the commence-  
9 ment of the six-year period described in section 302(b)(2) the  
10 Secretary shall report to the President and to the Congress  
11 on the progress of the transition to fully private financing,  
12 ownership, and operation of remote-sensing space systems,  
13 together with any recommendations for actions, including ac-  
14 tions necessary to ensure United States leadership in civilian  
15 land remote-sensing from space.

### 16 TITLE IV—LICENSING OF PRIVATE REMOTE- 17 SENSING SPACE SYSTEMS

#### 18 GENERAL AUTHORITY

19 SEC. 401. The Secretary is authorized, after consulta-  
20 tion with other appropriate Federal agencies, to grant, sus-  
21 pend, modify, or revoke licenses under this title, and to take  
22 any other such actions as he deems necessary in order to  
23 carry out the provisions of this title.



1 for the receipt of such license, to provide to the Secre-  
2 tary any data generated under such license which the  
3 Secretary may request for the purpose of archiving  
4 pursuant to section 602.

5 (6) For the purposes of ensuring compliance with  
6 the provisions of this Act concerning nondiscriminatory  
7 access to data, any private sector party proposing to  
8 be licensed under section 403 shall agree, as a condi-  
9 tion for the receipt of such license—

10 (A) to notify the Secretary of any “value-  
11 added” activities (as defined by the Secretary by  
12 regulation) that will be conducted by the licensee  
13 or by a subsidiary or affiliate of the licensee; and

14 (B) to provide the Secretary with a plan for  
15 the conduct of such activities which will ensure  
16 compliance with such provisions concerning non-  
17 discriminatory access.

18 **AUTHORITY OF THE SECRETARY**

19 **SEC. 403.** (a) The Secretary is authorized to license  
20 qualified private sector parties to operate civil remote-sensing  
21 space systems in accordance with the provisions of this Act.

22 (b) Any license issued under subsection (a) shall be in  
23 effect for such period as the Secretary may specify.

24 (c) Any private sector party may apply to the Secretary  
25 for issuance, transfer, or termination of a license under this

1 title in a form and manner prescribed by the Secretary. Each  
2 application under this section shall set forth the activities  
3 proposed to be carried out under the license, including meas-  
4 ures taken to comply with those operating requirements spec-  
5 ified in section 402 of this Act.

6 (d) No license shall be granted by the Secretary unless  
7 he determines in writing that the applicant will comply with  
8 the requirements of this Act, the regulations issued pursuant  
9 to this Act, and the international obligations and national se-  
10 curity concerns of the United States. The Secretary shall  
11 review any application and make a determination thereon  
12 within one hundred and twenty days of the receipt of an ap-  
13 plication. If final action has not occurred within such time,  
14 the Secretary shall inform the applicant of any pending issues  
15 and of actions required to resolve them.

16 (e) The Secretary may revoke, suspend, or modify a li-  
17 cense issued under this title if the Secretary determines and  
18 notifies the licensee in writing that the licensee has substan-  
19 tially failed to comply with any provision of this Act, with  
20 any regulation issued under this Act, with any terms, condi-  
21 tions, or restrictions of such license, or with any international  
22 obligation or national security concern of the United States.

23 (f) Any applicant or licensee who makes a timely re-  
24 quest for review of a denial of issuance or transfer; revoca-  
25 tion; suspension; conditioning; or modification of a license

1 shall be entitled to adjudication by the Secretary on the  
2 record after an opportunity for an agency hearing with re-  
3 spect to such denial, revocation, suspension, conditioning, or  
4 modification. Any final action by the Secretary under this  
5 subsection shall be subject to judicial review under chapter 7  
6 of title 5, United States Code.

7           REGULATORY AUTHORITY OF THE SECRETARY

8           SEC. 404. (a) The Secretary may issue regulations to  
9 carry out the provisions of this title.

10          (b) Regulations issued by the Secretary under this title  
11 shall be promulgated only after public notice and comment in  
12 accordance with the provisions of section 552 of title 5,  
13 United States Code.

14           ENFORCEMENT AUTHORITY OF THE SECRETARY

15           SEC. 405. (a) Each license issued by the Secretary shall  
16 require the licensee—

17           (1) to allow the Secretary or his designated offi-  
18 cers to inspect any financial or business records associ-  
19 ated with remote-sensing or "value-added" activities,  
20 and

21           (2) to allow the Secretary or his designated offi-  
22 cers to inspect any space-related or ground segment  
23 hardware or software to be utilized by the licensee in  
24 remote-sensing activities.

1       (b) It is unlawful for any person to violate any regula-  
2 tion or provision of any license issued under this Act, to vio-  
3 late any space treaty or law implementing any space treaty,  
4 or to prevent or inhibit the monitoring of remote-sensing ac-  
5 tivities or "value-added" activities by the Secretary or his  
6 designated officers.

7       (c) Any person who after notice and opportunity to be  
8 heard in accordance with title 5, United States Code, is  
9 found by the Secretary to have committed any act prohibited  
10 by subsection (b) shall be liable for a civil penalty of not more  
11 than \$10,000 for each violation. Each day of continuing op-  
12 eration in violation shall constitute a separate violation. The  
13 Secretary may compromise, modify, or remit any such civil  
14 penalty.

15       (d) For the purpose of conducting any hearing under this  
16 section, the Secretary may issue subpoenas for any materials,  
17 documents, or records, or for the attendance and testimony of  
18 witnesses.

19       (e) In carrying out his enforcement responsibilities, the  
20 Secretary may—

21           (1) seize any object, record, or report where it  
22           reasonably appears that such was used, is being used,  
23           or is likely to be used in violation of this Act; or

24           (2) make investigations and inquiries and adminis-  
25           ter to or take from any person an oath affirmation or

1 affidavit concerning any matter relating to the enforce-  
2 ment of this Act.

3 (f) The Secretary is authorized to terminate any licensed  
4 operations on an immediate basis when it reasonably appears  
5 that operation in violation of any provision of this Act, or any  
6 provision of a license issued under this Act, or of any obliga-  
7 tion of the United States under a space treaty, would be det-  
8 rimental to the national interest.

9 AGENCY ROLES

10 SEC. 406. (a) A private sector party may apply for a  
11 license to operate a remote-sensing space system which uti-  
12 lizes, on a space-available basis, a civilian United States  
13 Government satellite or vehicle as a platform for such  
14 system.

15 (b) The Secretary, pursuant to the authorities of this  
16 title, may license such system if it meets all conditions of this  
17 Act, and if—

18 (1) the applicant agrees, as a condition for the re-  
19 ceipt of such license, to reimburse the Government im-  
20 mediately for all related costs incurred with respect to  
21 such utilization, including a reasonable and proportion-  
22 ate share of fixed, spacecraft, data transmission, and  
23 launch costs; and

24 (2) such utilization would not interfere with or  
25 otherwise compromise the intended Government mis-

1 sions, as determined by the agency responsible for the  
2 satellite or vehicle.

3 (c) The Secretary may offer assistance to private sector  
4 parties in finding appropriate opportunities for such  
5 utilization.

6 (d) Federal agencies are authorized to enter into agree-  
7 ments for such utilization if such agreements are consistent  
8 with the agency's mission, statutory authority, and appro-  
9 priation Acts, and if such remote-sensing space system is li-  
10 censed by the Secretary.

11 (e) The provisions of this section do not apply to activi-  
12 ties carried out pursuant to title V.

#### 13 TERMINATION

14 SEC. 407. If, five years after the expiration of the six-  
15 year period described in section 302(b)(2), no private sector  
16 party has been licensed and continued in operation under the  
17 provisions of this title, the authority of this title shall  
18 terminate.

### 19 TITLE V—RESEARCH AND DEVELOPMENT

#### 20 PURPOSE AND POLICY

21 SEC. 501. It is the purpose of this title to provide for a  
22 comprehensive civilian program of research, development,  
23 and demonstration to enhance the United States capabilities  
24 for remote-sensing from space, as well as to enhance the ap-  
25 plication and utilization of such capabilities.



1 CONTINUED FEDERAL RESEARCH AND DEVELOPMENT

2 SEC. 502. (a)(1) The Administrator of the National Aer-  
3 onautics and Space Administration is directed to continue  
4 and to enhance such Administration's programs of remote-  
5 sensing research and development.

6 (2) The Administrator is authorized and encouraged  
7 to—

8 (A) conduct experimental space remote-sensing  
9 programs (including applications demonstration pro-  
10 grams and basic research at universities);

11 (B) develop remote-sensing technologies and tech-  
12 niques, including those needed for monitoring the  
13 Earth and its environment; and

14 (C) conduct such research and development in co-  
15 operation with other public and private research enti-  
16 ties, including private industry, universities, State and  
17 local governments, foreign governments, and interna-  
18 tional organizations, and to enter into arrangements  
19 (including joint ventures) which will foster such  
20 cooperation.

21 (b)(1) The Secretary shall conduct a continuing program  
22 of—

23 (A) research in applications of remote-sensing;

24 (B) monitoring of the Earth and its environment;

25 and

1           (C) development of technology for such monitor-  
2           ing.

3           (2) Such program may include support of basic research  
4           at universities.

5           (3) The Secretary is authorized and encouraged to con-  
6           duct such research, monitoring, and development in coopera-  
7           tion with other public and private research entities, including  
8           private industry, universities, State and local governments,  
9           foreign governments, and international organizations, and to  
10          enter into arrangements (including joint ventures) which will  
11          foster such cooperation.

12          (e) Other Federal agencies are authorized and encour-  
13          aged to conduct research and development on the use of  
14          remote-sensing in fulfillment of their authorized missions,  
15          using funds appropriated for such purposes.

16          (d) The Secretary and the Administrator of the National  
17          Aeronautics and Space Administration shall, within one year  
18          after the date of enactment of this Act and biennially thereaf-  
19          ter, jointly develop and transmit to the Congress a report  
20          which includes (1) a unified national plan for remote-sensing  
21          research and development applied to the Earth and its at-  
22          mosphere; (2) a compilation of progress in the relevant ongo-  
23          ing research and development activities of the Federal agen-  
24          cies; and (3) an assessment of the state of our knowledge of  
25          the Earth and its atmosphere, the needs for additional re-

1 search (including research related to operational Federal  
2 remote-sensing space programs), and opportunities available  
3 for further progress.

4 **USE OF EXPERIMENTAL DATA**

5 **SEC. 503.** Data gathered in Federal experimental space  
6 remote-sensing programs may be used in related research  
7 and development programs funded by the Federal Govern-  
8 ment (including applications programs) and cooperative re-  
9 search programs, but not for commercial uses or in competi-  
10 tion with private sector activities, except as permitted by sec-  
11 tion 504.

12 **SALE OF EXPERIMENTAL DATA**

13 **SEC. 504.** Data gathered in Federal experimental space  
14 remote-sensing programs may be sold on bloc through a com-  
15 petitive process (consistent with national security interests  
16 and international obligations of the United States) to any  
17 United States entity which will market the data on a nondis-  
18 criminatory basis.

19 **TITLE VI—GENERAL PROVISIONS**

20 **NONDISCRIMINATORY DATA AVAILABILITY**

21 **SEC. 601.** (a) Any digital remote-sensing data generated  
22 by any system operator under the provisions of this Act shall  
23 be made available to all users on a nondiscriminatory basis in  
24 accordance with the requirements of this Act.

1 (b) Any system operator shall make publicly available  
2 the prices, policies, procedures, and other terms and condi-  
3 tions (but not, in accordance with section 104(2)(C), the  
4 names of buyers or their purchases) upon which the operator  
5 will sell such data.

6 ARCHIVING OF DATA

7 SEC. 602. (a) It is in the public interest for the United  
8 States Government—

9 (1) to maintain an archive of land remote-sensing  
10 satellite data for historical, scientific, and technical  
11 purposes, including long-term global environmental  
12 monitoring;

13 (2) to control the content and scope of the ar-  
14 chive; and

15 (3) to assure the quality, integrity, and continuity  
16 of the archive.

17 (b) The Secretary shall provide for long-term storage,  
18 maintenance, and upgrading of a basic, global, land remote-  
19 sensing data set (hereafter referred to as the "basic data  
20 set") and shall follow reasonable archival practices to assure  
21 proper storage and preservation of the basic data set and  
22 timely access for parties requesting data. The basic data set  
23 which the Secretary assembles in the Government archive  
24 shall remain distinct from any inventory of data which a

1 system operator may maintain for sales and for other  
2 purposes.

3 (c) In determining the initial content of, or in upgrading,  
4 the basic data set, the Secretary shall—

5 (1) use as a baseline the MSS data currently  
6 archived;

7 (2) take into account future technical and scien-  
8 tific developments and needs;

9 (3) consult with and seek the advice of users and  
10 producers of remote-sensing data and data products,  
11 keeping the Congress advised of such contacts;

12 (4) consider the public's need for data which may  
13 be duplicative in terms of geographical coverage but  
14 which differ in terms of season, spectral bands, resolu-  
15 tion, or other relevant factors;

16 (5) include, as the Secretary deems appropriate,  
17 digital remote-sensing data generated either by the  
18 Landsat system, pursuant to title III, or by license  
19 holders under title IV; and

20 (6) include, as he deems appropriate, data collect-  
21 ed by foreign ground stations or by foreign remote-  
22 sensing space systems.

23 (d) All original data (or copies thereof) shall, on request,  
24 be made promptly available to the Secretary by any system  
25 operator in a form suitable for processing for data storage,

1 maintenance, and access. The Secretary is authorized (sub-  
2 ject to the availability of appropriations) to pay to such  
3 system operator reasonable costs for reproduction and trans-  
4 mittal of any such data.

5 (e) Any system operator shall have the exclusive right  
6 to sell all data that the operator provides to the United  
7 States remote-sensing data archive for a period to be deter-  
8 mined by the Secretary but not to exceed ten years from the  
9 date the data are sensed. In the case of data generated from  
10 the Landsat system prior to the implementation of the con-  
11 tract described in section 201(a) of this Act, any contractor  
12 selected pursuant to section 201 shall have the exclusive  
13 right to market such data on behalf of the United States Gov-  
14 ernment for the duration of such contract. A system operator  
15 may relinquish his exclusive right and consent to distribution  
16 from the archive before the period of exclusive right has ex-  
17 pired by terminating his offer to sell particular data.

18 (f) After expiration of such exclusive right to sell, or  
19 after relinquishment of such right, the data provided to the  
20 United States remote-sensing data archive shall be in the  
21 public domain and shall be made available to requesting par-  
22 ties by the Secretary at prices reflecting reasonable costs of  
23 reproduction and transmittal.

24 (g) In carrying out the functions of this section, the Sec-  
25 retary may use existing facilities or may contract with a pri-

1 vate sector party or parties for the performance of such func-  
2 tions, subject to the availability of appropriations therefor.

3 **NONREPRODUCTION**

4 **SEC. 603.** Digital remote-sensing data distributed by  
5 any system operator under the provisions of this Act may be  
6 sold under the condition that such data will not be repro-  
7 duced or disseminated by the purchaser.

8 **REIMBURSEMENT FOR ASSISTANCE; SALE OF EQUIPMENT**

9 **SEC. 604.** (a) The Administrator of the National Aero-  
10 nautics and Space Administration, the Secretary of Defense,  
11 and the heads of other Federal agencies are authorized to  
12 provide assistance to system operators under the provisions  
13 of this Act. Substantial assistance, such as launch services,  
14 shall be reimbursed by the system operator.

15 (b) The Secretary may allow a licensee under section  
16 403, or any other private sector party, to buy or otherwise  
17 acquire the use of equipment from the Landsat system, when  
18 such equipment is no longer needed for the operation of that  
19 system or for the sale of data from that system. Officials of  
20 other Federal civilian agencies are authorized and encour-  
21 aged to cooperate with the Secretary in carrying out this  
22 subsection.

23 **RADIO FREQUENCY ALLOCATION**

24 **SEC. 605.** The Federal Communications Commission  
25 and the Secretary are encouraged to allocate to any license

1 holder under title IV of this Act access to Government radio  
2 frequencies and other civil radio frequencies appropriate for  
3 space remote-sensing systems in a timely manner consistent  
4 with international obligations and with the national interest.

5 CONSULTATION

6 SEC. 606. (a) The Secretary shall consult with the Sec-  
7 retary of Defense on all matters under this Act affecting na-  
8 tional security. The Secretary of Defense shall be responsible  
9 for determining those conditions, consistent with this Act,  
10 necessary to meet national security concerns of the United  
11 States and for notifying the Secretary promptly of such  
12 conditions.

13 (b)(1) The Secretary shall consult with the Secretary of  
14 State on all matters under this Act affecting international  
15 obligations. The Secretary of State shall be responsible for  
16 determining those conditions, consistent with this Act, neces-  
17 sary to meet international obligations and policies of the  
18 United States and for notifying the Secretary promptly of  
19 such conditions.

20 (2) The Secretary of State is authorized and encouraged  
21 to provide land remote-sensing data, technology, and training  
22 to developing nations as a component of programs of interna-  
23 tional aid.



1       ~~(3) The Secretary of State shall promptly report to the~~  
2 ~~Secretary any instances outside the United States of discrimi-~~  
3 ~~natory distribution of data.~~

4       ~~(e) If, as a result of conditions imposed on a system~~  
5 ~~operator on the basis of national security or international ob-~~  
6 ~~ligations or policies, the Secretary (in consultation with the~~  
7 ~~Secretary of Defense or the Secretary of State, as the case~~  
8 ~~may be) determines that additional costs will be incurred by~~  
9 ~~the system operator, or that past development costs (includ-~~  
10 ~~ing the cost of capital) will not be recovered by the system~~  
11 ~~operator, the Secretary may require the agency or agencies~~  
12 ~~requesting such conditions to reimburse the system operator~~  
13 ~~for such additional or development costs, excluding antici-~~  
14 ~~pated profits.~~

15       ~~AMENDMENT TO NATIONAL AERONAUTICS AND SPACE~~

16               ~~ADMINISTRATION AUTHORIZATION, 1983~~

17       ~~SEC. 607. Subsection (a) of section 201 of the National~~  
18 ~~Aeronautics and Space Administration Authorization, 1983,~~  
19 ~~is amended to read as follows:~~

20       ~~“(a) The Secretary of Commerce is hereby authorized to~~  
21 ~~plan and provide for the management and operation of civil~~  
22 ~~remote-sensing space systems, which may include the Land-~~  
23 ~~sat 4 and 5 satellites and associated ground system equip-~~  
24 ~~ment transferred from the National Aeronautics and Space~~  
25 ~~Administration; to provide for user fees; and to plan for the~~

1 transfer of the ownership and operation of civil, operational  
2 remote-sensing space systems to the private sector when in  
3 the national interest.”.

4 **RELATION TO OTHER LAWS**

5 **SEC. 608.** The requirements of this Act are in addition  
6 to, and not in lieu of, any other provision of law.

7 **AUTHORIZATION OF APPROPRIATIONS**

8 **SEC. 609. (a)** There are authorized to be appropriated to  
9 the Secretary \$10,000,000 for fiscal year 1985 for the pur-  
10 pose of carrying out the provisions of section 302, title IV,  
11 and section 602 of this Act.

12 **(b)** The authorization provided for under subsection (a)  
13 shall be in addition to moneys authorized pursuant to title II  
14 of the National Aeronautics and Space Administration Au-  
15 thorization Act of 1983 (Public Law 97-324).

16 **TITLE VII—PROHIBITION OF COMMERCIALIZA-**  
17 **TION OF WEATHER SATELLITES**

18 **PROHIBITION**

19 **SEC. 701.** Neither the President nor any other official of  
20 the Government shall make any effort to lease, sell, or trans-  
21 fer to the private sector, commercialize, or in any way dis-  
22 mantle any portion of the weather satellite systems operated  
23 by the Department of Commerce or any successor agency.

1                                   **FUTURE CONSIDERATIONS**

2           ~~SEC. 702. Regardless of any change in circumstances~~  
3 ~~subsequent to the enactment of this Act, even if such change~~  
4 ~~makes it appear to be in the national interest to commercial-~~  
5 ~~ize weather satellites, neither the President nor any official~~  
6 ~~shall take any action prohibited by section 701 of this Act~~  
7 ~~unless this title has first been repealed.~~

8 *That this Act may be cited as the "Land Remote Sensing*  
9 *Satellite Commercialization Act of 1984".*

10           **TITLE I—DECLARATION OF FINDINGS AND**

11                                   **PURPOSES**

12                                   **FINDINGS**

13           *SEC. 101. The Congress finds and declares that—*

14                           *(1) the Federal Government's experimental Land-*  
15 *sat system has established the United States as the*  
16 *world leader in land remote sensing satellite*  
17 *technology;*

18                           *(2) the continuous collection of land remote sens-*  
19 *ing data from satellites is of major benefit in managing*  
20 *the Earth's natural resources;*

21                           *(3) private sector involvement in space can pro-*  
22 *vide sound bases for the future growth of space-based*  
23 *technologies;*

24                           *(4) it is necessary to determine the extent to*  
25 *which it is appropriate and in the national interest for*

1        *the private sector to assume responsibility for civil land*  
2        *remote sensing satellite system operation and data*  
3        *management;*

4            *(5) the existing civil land remote sensing system*  
5        *of the United States involves important international*  
6        *commitments;*

7            *(6) civil land remote sensing involves relevant na-*  
8        *tional security concerns;*

9            *(7) it is in the national interest to promote the es-*  
10       *tablishment of private land remote sensing ventures;*

11           *(8) private industry is best suited to develop mar-*  
12       *kets for remote sensing data;*

13           *(9) it is doubtful that the private sector alone cur-*  
14       *rently can develop a total land remote sensing system*  
15       *because of the high risk and large capital expenditure*  
16       *involved;*

17           *(10) cooperation between the Federal Government*  
18       *and private industry is necessary to manage effectively*  
19       *the existing Landsat system so as to ensure data conti-*  
20       *nunity, to honor international and national security re-*  
21       *sponsibilities, and to broaden the data market enough*  
22       *to support self-sufficient private ventures; and*

23           *(11) such cooperation should be structured to min-*  
24       *imize the amount of support and regulation by the*  
25       *Federal Government, while assuring continuous avail-*

1     *ability to the Federal Government of land remote sens-*  
2     *ing data.*

3                                   *PURPOSES*

4     *SEC. 102. The purposes of this Act are to—*

5             *(1) guide the Federal Government in achieving*  
6     *proper involvement of the private sector by providing a*  
7     *framework for gradual commercialization of land*  
8     *remote sensing, allowing an increasing private role as*  
9     *the market for data expands, and assuring continuous*  
10    *data availability to the Federal Government;*

11            *(2) preserve the leading position of the United*  
12    *States in civil land remote sensing, preserve the na-*  
13    *tional security, and honor the international obligations*  
14    *of the United States;*

15            *(3) reaffirm the right of all nations to sense the*  
16    *Earth's surface and acquire land remote sensing data,*  
17    *so long as such data are made available to all potential*  
18    *users on a nondiscriminatory basis; and*

19            *(4) minimize the duration and amount of further*  
20    *Federal investment necessary to assure data continuity*  
21    *while achieving commercialization of civil land remote*  
22    *sensing.*

23                                   *DEFINITIONS*

24     *SEC. 103. For purposes of this Act, the term—*

1           (1) *“Landsat system” means Landsat 4 and*  
2           *Landsat 5, and related ground equipment, systems and*  
3           *facilities;*

4           (2) *“nondiscriminatory basis” means without*  
5           *preference, bias, or any arrangement that favors any*  
6           *purchaser or class of purchasers over another, such*  
7           *that—*

8                   (A) *data products are made available to all*  
9                   *potential buyers at standard, published prices;*

10                   (B) *all purchasers are given the same oppor-*  
11                   *tunities for access to data, such as timeliness of*  
12                   *availability and terms of delivery; and*

13                   (C) *special arrangements, other than any ar-*  
14                   *rangement for exclusive access to data by any*  
15                   *purchaser, such as volume discounts, gathering of*  
16                   *data with certain characteristics requested by a*  
17                   *purchaser, and maintenance of secrecy regarding*  
18                   *any such arrangements, are permissible if the*  
19                   *availability and prices of such services are pub-*  
20                   *lished and uniformly available to all data*  
21                   *purchasers;*

22           (3) *“Secretary” means the Secretary of*  
23           *Commerce;*

24           (4) *“unenhanced data” means digital or minimal-*  
25           *ly processed signals collected from civil land remote*

1     *sensing satellites involving rectification of distortions,*  
 2     *registration with respect to features of the Earth, and*  
 3     *calibration of spectral response; the term does not in-*  
 4     *clude conclusions, manipulations, or calculations de-*  
 5     *rived from such signals or combination of the signals*  
 6     *with other data or information; and*

7             (5) *“United States private entity” means any cit-*  
 8     *izen of the United States or any nongovernmental*  
 9     *entity or consortium of entities, the majority of whose*  
 10    *assets is owned by citizens of the United States, the*  
 11    *majority of whose personnel is comprised of citizens of*  
 12    *the United States, and whose principal place of busi-*  
 13    *ness is in the United States.*

14    *TITLE II—OPERATION AND DATA MARKETING*  
 15             *OF LANDSAT SYSTEM*

16

*OPERATION*

17             *SEC. 201. (a) The Department of Commerce shall be*  
 18    *responsible for—*

19             (1) *the orbit and data collection of Landsat 4, and*  
 20    *disposition of Landsat 4 upon the termination of its*  
 21    *useful operation, as determined and published by the*  
 22    *Secretary;*

23             (2) *the orbit and data collection of Landsat 5, and*  
 24    *disposition of Landsat 5 upon the termination of its*

1        *useful operation, as determined and published by the*  
2        *Secretary;*

3            *(3) ground equipment and facilities which are*  
4        *used to operate the Landsat system; and*

5            *(4) provision of data to foreign ground stations*  
6        *under the terms of existing Memoranda of Understand-*  
7        *ing between the United States Government and na-*  
8        *tions that operate ground stations.*

9        *(b) The Department of Commerce may extend any such*  
10       *Memoranda of Understanding if such extension provides for*  
11       *their expiration upon the termination of the useful operation*  
12       *of the Landsat system.*

13       *(c) The provisions of this section shall not prohibit the*  
14       *Department of Commerce from continuing to contract for the*  
15       *operation of the Landsat system, so long as the United States*  
16       *Government retains—*

17            *(1) ownership of the system;*

18            *(2) ownership of the unenhanced data; and*

19            *(3) authority to make decisions concerning oper-*  
20        *ation of the system.*

21            **MARKETING OF UNENHANCED DATA**

22        *SEC. 202. (a) In accordance with the requirements of*  
23        *this title, the Secretary shall, to the extent provided in ad-*  
24        *vance by appropriation Acts, by means of a competitive proc-*  
25        *ess contract with a United States private entity for the mar-*



1 *keting of unenhanced data collected by the Landsat system.*

2 *Any such contract shall provide that—*

3 *(1) the contractor may set the prices of unen-*  
4 *hanced data products, if the products are always avail-*  
5 *able to all potential users on a nondiscriminatory*  
6 *basis;*

7 *(2) the contractor shall compensate the United*  
8 *States Government for the right to sell the data by*  
9 *payment of an initial fee, a percentage of data sales*  
10 *receipts, or some combination of such fee and receipts;*

11 *(3) the contractor shall pay to the United States*  
12 *Government the full purchase price of any unenhanced*  
13 *data that the contractor elects to utilize for purposes*  
14 *other than sale, in accordance with paragraph (4) of*  
15 *this subsection;*

16 *(4) the contractor shall not engage in any sale of*  
17 *processed data except in a manner consistent with ap-*  
18 *plicable antitrust laws; and*

19 *(5) the Secretary has determined that such con-*  
20 *tract is likely to result in cost savings for the United*  
21 *States Government.*

22 *(b) Prior to entering into such a contract, the Secretary*  
23 *shall publish the requirements of subsection (a)(1) through*  
24 *(5) of this section, and the contract shall be subject to such*  
25 *requirements.*

*added*

1           (c)(1) Any decision or proposed decision by the Secre-  
2 tary to enter into any such contract shall be transmitted to  
3 the Committee on Commerce, Science, and Transportation of  
4 the Senate and the Committee on Science and Technology of  
5 the House of Representatives for their review. No such deci-  
6 sion or proposed decision shall be implemented unless (A) a  
7 period of 30 days of continuous session of Congress has  
8 passed after the receipt by each such committee of such trans-  
9 mittal or (B) each such committee before the expiration of  
10 such period has, by vote of a majority of its members, agreed  
11 to transmit and has transmitted to the Secretary written  
12 notice to the effect that such committee has no objection to the  
13 decision or proposed decision. As part of such transmittal, the  
14 Secretary shall include the information specified in subsec-  
15 tion (a)(1) through (5) of this section.

16           (2) For purposes of this section—

17                   (A) continuity of session is broken only by  
18                   an adjournment sine die; and

19                   (B) days on which either House is not in  
20                   session because of an adjournment of more than 5  
21                   days to a day certain are excluded in the compu-  
22                   tation of such period.

23                   AWARDING OF THE CONTRACT

24           SEC. 203. (a) The Secretary shall award any such con-  
25 tract on the basis of—

1           (1) *the financial return to the United States Gov-*  
2           *ernment, based on any initial fee offered for marketing*  
3           *rights and any percentage of data sales receipts offered*  
4           *to the United States Government;*

5           (2) *the ability to expand the market for unen-*  
6           *hanced land remote sensing data; and*

7           (3) *such other factors as the Secretary considers*  
8           *appropriate.* 

9           (b) *If, as a result of the competitive process required by*  
10          *section 202(a) of this title, the Secretary receives no proposal*  
11          *which the Secretary determines to be acceptable under the*  
12          *provisions of this title, the Secretary shall so certify and fully*  
13          *report such finding to the Congress. As soon as practicable*  
14          *but not later than 30 days after so certifying and reporting,*  
15          *the Secretary shall reopen the competitive process. The period*  
16          *for the subsequent competitive process shall not exceed 120*  
17          *days. If, after such subsequent competitive process, the Secre-*  
18          *tary receives no proposal which the Secretary determines to*  
19          *be acceptable under the provisions of this title, the Secretary*  
20          *shall so certify and fully report such finding to the Congress.*  
21          *In the event that no acceptable proposal is received, the Sec-*  
22          *retary shall continue to market data from the Landsat*  
23          *system.*



1 for a period of 6 years. Such evaluation and any solicitation  
2 of proposals shall be conducted by means of a competitive  
3 process. Such proposals, at a minimum, shall specify—

4 (1) the quantities and qualities of data expected  
5 from the system;

6 (2) the projected date upon which operations could  
7 begin;

8 (3) the number of satellites to be constructed and  
9 their expected lifetimes;

10 (4) any need for Federal funding to develop the  
11 system;

12 (5) any percentage of sales receipts offered to the  
13 Federal Government;

14 (6) plans for expanding the market for land  
15 remote sensing data; and

16 (7) the proposed relationship and procedures for  
17 meeting the national security and international obliga-  
18 tions of the United States

*New* | *Consistent with the conditions developed under section 6067(a), and (6)*

19 NOTIFICATION REGARDING AWARDING OF THE CONTRACT

20 SEC. 303.(a) The Secretary shall evaluate the proposals  
21 referred to in section 302 of this title and, to the extent pro-  
22 vided in advance by appropriation Acts, may contract, in ac-  
23 cordance with section 401 of this Act, with a United States  
24 private entity for the provision by such entity of the capabil-  
25 ity of generating land remote sensing data and marketing  
26 such unenhanced data for a period of 6 years. As part of such

1 *evaluation, the Secretary shall analyze the expected outcome*  
2 *of each proposal, in terms of—*

3 *(1) the availability of such data upon the expected*  
4 *termination of the Landsat system;*

5 *(2) the quantities and qualities of data to be gen-*  
6 *erated by the recommended system;*

7 *(3) the cost to the Federal Government of develop-*  
8 *ing the recommended system;*

9 *(4) the potential to expand the market for data;*

10 *(5) any percentage of data sales offered to the*  
11 *Federal Government, in accordance with section 304 of*  
12 *this title;*

13 *(6) the contractor's ability to advance remote sens-*  
14 *ing technology and maintain the technological leader-*  
15 *ship of the United States in remote sensing;*

16 *(7) the commercial viability of the proposal;*

17 *(8) the technical competence and financial condi-*  
18 *tion of the contractor;*

19 *(9) the proposed relationship and procedures for*  
20 *satisfying the national security and international obli-*  
21 *gations of the United States; and*

22 *(10) such other factors, including the marketing of*  
23 *unenhanced data from the Landsat system, as the Sec-*  
24 *retary deems appropriate and relevant.*

*New*

1       **(b)(1)** Any decision or proposed decision by the Secre-  
2 tary to enter into any such contract shall be transmitted to  
3 the Committee on Commerce, Science, and Transportation of  
4 the Senate and the Committee on Science and Technology of  
5 the House of Representatives for their review. No such deci-  
6 sion or proposed decision shall be implemented unless (A) a  
7 period of 30 days of continuous session of Congress has  
8 passed after the receipt by each such committee of such trans-  
9 mittal or (B) each such Committee before the expiration of  
10 such period has, by vote of a majority of its members, agreed  
11 to transmit and has transmitted to the Secretary written  
12 notice to the effect that such committee has no objection to the  
13 decision or proposed decision. As part of such transmittal, the  
14 Secretary shall include the information specified in subsec-  
15 tion (a) (1) through (6) of this section.

16       **(2)** For purposes of this section—

17           (A) continuity of session is broken only by an ad-  
18 journment sine die; and

19           (B) days on which either House is not in session  
20 because of an adjournment of more than 5 days to a  
21 day certain are excluded in the computation of such  
22 period.

23       **(c)** If, as a result of the competitive process required by  
24 subsection (a) of this section, the Secretary receives no pro-  
25 posal which the Secretary determines to be acceptable under

*New* ↑

1 *the provisions of this title, the Secretary shall so certify and*  
2 *fully report such finding to the Congress. As soon as practi-*  
3 *cable but not later than 30 days after so certifying and re-*  
4 *porting, the Secretary shall reopen the competitive process.*  
5 *The period for the subsequent competitive process shall not*  
6 *exceed 180 days. If, after such subsequent competitive proc-*  
7 *ess, the Secretary receives no proposal which the Secretary*  
8 *determines to be acceptable under the provisions of this title,*  
9 *the Secretary shall so certify and fully report such finding to*  
10 *the Congress. Not earlier than 90 days after such certifica-*  
11 *tion and report, the Secretary may assure data continuity by*  
12 *procurement and operation by the Federal Government of the*  
13 *necessary systems, to the extent provided in advance by ap-*  
14 *propriation Acts.*

15

#### MARKETING INCENTIVE

16 *SEC. 304. In order to promote aggressive marketing of*  
17 *land remote sensing data, any contract entered into pursuant*  
18 *to this title may provide that the percentage of sales paid by*  
19 *the contractor to the Federal Government shall decrease ac-*  
20 *cording to stipulated increases in sales levels.*

21

#### TERMS OF THE CONTRACT

22 *SEC. 305. (a) Any contract entered into pursuant to*  
23 *this title—*

24 *(1) shall provide that the contractor will offer to*  
25 *sell and deliver unenhanced land remote sensing data*  
26 *to all potential buyers on a nondiscriminatory basis;*



1           (2) shall provide that the contractor will engage in  
2           *any sale of processed data only in a manner consistent*  
3           *with applicable antitrust laws;*

4           (3) shall not provide a guarantee of purchases of  
5           *data by the Federal Government from the contractor;*

6           ~ (4) may provide that the contractor utilize, on a  
7           *space-available basis, civilian Government satellites as*  
8           *platforms for a civil land remote sensing satellite*  
9           *system, if—*

10                   (A) the contractor immediately reimburses  
11                   *the Government for all related costs incurred with*  
12                   *respect to such utilization, including a reasonable*  
13                   *and proportionate share of fixed, spacecraft, data*  
14                   *transmission, and launch costs; and*

15                   (B) such utilization would not interfere with  
16                   *or otherwise in any way compromise the intended*  
17                   *civilian Government missions, as determined by*  
18                   *the agency responsible for the civilian satellite;*  
19                   *and*

20                   (5) may provide indirect and direct financial sup-  
21                   *port by the United States Government, including loans*  
22                   *and loan guarantees, payments pursuant to section 305*  
23                   *of the Federal Property and Administrative Services*  
24                   *Act of 1949 (41 U.S.C. 255) for a portion of the cap-*

1 *ital costs required to provide the follow-on capability,*  
2 *and other financial considerations.*

3 *(b)(1) Without regard to whether any contract entered*  
4 *into under this title is combined with a contract under title II*  
5 *of this Act, the Secretary shall promptly determine whether*  
6 *the contract entered into under this title reasonably effectu-*  
7 *ates the purposes and policies of title II. Such determination*  
8 *shall be submitted to the President and the Congress, together*  
9 *with a full statement of the basis for such determination.*

10 *(2) If the Secretary determines that such contract does*  
11 *not reasonably effectuate the purposes and policies of title II*  
12 *of this Act, the Secretary shall promptly attempt to carry out*  
13 *the provisions of such title.*

14 *REPORT*

15 *SEC. 306. Within 2 years after the commencement of*  
16 *operations of any system with respect to which a contract has*  
17 *been entered into under this title, the Secretary shall report to*  
18 *the Congress on the progress and feasibility of the transition*  
19 *to total private financing, operation, and ownership of a land*  
20 *remote sensing satellite system, together with any legislative*  
21 *recommendations to accomplish such transition.*

22 *AUTHORIZATION OF APPROPRIATIONS*

23 *SEC. 307. There are authorized to be appropriated for*  
24 *purposes of this title not to exceed \$60,000,000 for fiscal year*  
25 *1985. Such sums shall remain available until expended, but*

*New*

*New*

1 *shall not become available until the time period specified in*  
 2 *section 303(b)(1)(A) or (B), as appropriate, has expired.*

3 *TERMINATION OF AUTHORITY*

4 *SEC. 308. The authority granted by this title shall ter-*  
 5 *minate 10 years after the date of enactment of this Act.*

6 *TITLE IV—PRIVATE LAND REMOTE SENSING*  
 7 *SYSTEMS*

8 *GENERAL AUTHORITY*

9 *SEC. 401. (a) In consultation with other appropriate*  
 10 *Federal agencies, the Secretary shall license qualified United*  
 11 *States private entities to operate civil land remote sensing*  
 12 *satellite systems for such period as the Secretary may specify*  
 13 *and in accordance with the provisions of this title.*

14 *(b) No license shall be granted by the Secretary unless*  
 15 *the Secretary determines in writing that the applicant will*  
 16 *comply with the requirements of this Act, any regulations*  
 17 *issued pursuant to this Act, and will meet applicable interna-*  
 18 *tional obligations and national security concerns of the*

19 *United States consistent with the conditions*  
 20 *developed under section 602(a)(6)*  
 20 *CONDITIONS FOR OPERATION*

21 *SEC. 402. (a) No private sector party or consortium*  
 22 *may operate any civil land remote sensing system which is*  
 23 *subject to the jurisdiction or control of the United States*  
 24 *without obtaining a license pursuant to section 401 of this*  
 25 *title.*

1 (b) Any license issued pursuant to this title shall speci-  
2 fy, at a minimum, that the licensee shall—

3 (1) make available data generated by the system  
4 to all potential users on a nondiscriminatory basis;

5 (2) upon termination of its operations under the  
6 license, make disposition of any satellites in space in a  
7 manner satisfactory to the President;

8 (3) promptly make available to the Secretary all  
9 data generated by the system, pursuant to title VI of  
10 this Act;

11 (4) furnish the Secretary with complete orbit and  
12 data collection characteristics of the system, obtain ad-  
13 vance approval of any intended deviation from such  
14 characteristics, and inform the Secretary immediately  
15 of any unintended deviation;

16 (5) obtain advance approval from the Secretary of  
17 any agreement it intends to enter with a foreign  
18 nation, entity or consortium involving foreign nations  
19 or entities;

20 (6) operate the system in a manner that is con-  
21 sistent with international law;

22 (7) permit the inspection of its facilities and fi-  
23 nancial records;

24 (8) surrender the license and terminate operations  
25 upon a finding by the Secretary that continued oper-

New.

1     *ations would be detrimental to the national interest;*  
 2     *and*  
 3         *(9) not engage in any sale of processed data*  
 4     *except in a manner consistent with applicable antitrust*  
 5     *laws.*

6                     **RESPONSIBILITIES OF THE SECRETARY**

7         *SEC. 403. The Secretary, in consultation with appro-*  
 8     *priate Federal agencies, shall be responsible for protection of*  
 9     *national security interests and adherence to international ob-*  
 10    *ligations of the United States which are relevant to operation*  
 11    *of private land remote sensing satellite systems, including—*

12             *(1) responsibility for all land remote sensing ac-*  
 13     *tivities of nongovernmental entities of the United*  
 14     *States;*

15             *(2) liability for damage caused by space objects*  
 16     *under registration or license by the Federal Govern-*  
 17     *ment; and*

18             *(3) registration with appropriate international au-*  
 19     *thorities of all objects launched into space by nongov-*  
 20     *ernmental entities of the United States.*

21                     **AUTHORITY OF THE SECRETARY**

22         *SEC. 404. In order to carry out the responsibilities*  
 23     *specified in this title, the Secretary may—*

24             *(1) inspect the facilities or financial records of*  
 25     *any licensee under this title; and*



1 *proportionate share of fixed, spacecraft, data transmis-*  
 2 *sion, and launch costs; and*

3 *(2) such utilization would not interfere with or*  
 4 *otherwise in any way compromise intended civilian*  
 5 *Government missions, as determined by the agency re-*  
 6 *sponsible for such civilian satellite.*

7 *(b) The Secretary may offer assistance to private sector*  
 8 *parties in finding appropriate opportunities for such*  
 9 *utilization.*

10 *(c) To the extent provided in advance by appropriation*  
 11 *Acts, any Federal agency may enter into agreements for such*  
 12 *utilization if such agreements are consistent with such agen-*  
 13 *cy's mission and statutory authority, and if such remote*  
 14 *sensing system is licensed by the Secretary.*

15 *(d) The provisions of this title shall not apply to any*  
 16 *activity carried out by the National Aeronautics and Space*  
 17 *Administration pursuant to its authority under title IV of the*  
 18 *National Aeronautics and Space Act of 1958 (42 U.S.C.*  
 19 *2481 et seq.).*

20 *(e) Nothing in this section shall affect the authority of*  
 21 *the Federal Communications Commission to assign radio*  
 22 *frequencies pursuant to the Communications Act of 1934 (47*  
 23 *U.S.C. 151 et seq.).*

24

#### TERMINATION

25 *SEC. 407. The authority granted by this title shall ter-*  
 26 *minate 20 years after the date of enactment of this Act if no*

1 *private sector party or consortium has been licensed and con-*  
2 *tinues in operation under the provisions of this title.*

3 *TITLE V—CONTINUED REMOTE SENSING*  
4 *RESEARCH AND DEVELOPMENT*

5 *FEDERAL RESEARCH AND DEVELOPMENT*

6 *SEC. 501. (a) In order to preserve the worldwide leader-*  
7 *ship of the United States in remote sensing technologies and*  
8 *applications, the Administrator of the National Aeronautics*  
9 *and Space Administration is—*

10 *(1) directed to continue and to enhance remote*  
11 *sensing research and development activities, and is en-*  
12 *couraged to conduct experimental remote sensing pro-*  
13 *grams and to develop remote sensing technologies in*  
14 *support of its mission; and*

15 *(2) authorized and encouraged to—*

16 *(A) conduct such research and development*  
17 *in cooperation with other public and private re-*  
18 *search entities, including private industry, univer-*  
19 *sities, other Federal agencies, State and local gov-*  
20 *ernments, foreign governments and international*  
21 *organizations; and*

22 *(B) enter into arrangements (including joint*  
23 *ventures and cooperative agreements) which will*  
24 *foster cooperation and advance the state-of-the-art*  
25 *of remote sensing technologies.*



1       **(b)** *In order to preserve the worldwide leadership of the*  
2 *United States in remote sensing technologies and applica-*  
3 *tions, the Secretary, the Secretary of the Interior and the*  
4 *Secretary of Agriculture—*

5           **(1)** *shall continue research in applications of*  
6 *remote sensing data, monitoring of the Earth and its*  
7 *environment, and the development of technologies for*  
8 *such monitoring; and*

9           **(2)** *are authorized and encouraged to—*

10           **(A)** *conduct such research and development*  
11 *in cooperation with other public and private re-*  
12 *search entities, including private industry, univer-*  
13 *sities, other Federal agencies, State and local gov-*  
14 *ernments, foreign governments and international*  
15 *organizations; and*

16           **(B)** *enter into arrangements (including joint*  
17 *ventures and cooperative agreements) which will*  
18 *foster cooperation, advance the applications of*  
19 *remote sensing, and enhance monitoring activities*  
20 *and technologies.*

21       **(c)** *In order to preserve the worldwide leadership of the*  
22 *United States in remote sensing technologies and applica-*  
23 *tions, other Federal agencies are encouraged to conduct re-*  
24 *search and development programs in remote sensing if such*

1 *programs are consistent with the authorized missions of such*  
2 *agencies.*

3 *USE OF EXPERIMENTAL DATA*

4 *SEC. 502. Data gathered in Federal experimental land*  
5 *remote sensing programs may be used in related research and*  
6 *development programs funded by the Federal Government,*  
7 *including applications programs, but not for commercial uses*  
8 *or in competition with private sector activities, except as per-*  
9 *mitted by section 503 of this title.*

10 *SALE OF EXPERIMENTAL DATA*

11 *SEC. 503. Data gathered in Federal experimental land*  
12 *remote sensing programs may, by means of a competitive*  
13 *process, be sold en bloc (consistent with national security in-*  
14 *terests and international obligations of the United States) to*  
15 *any United States entity which will market the data on a*  
16 *nondiscriminatory basis.*

17 *TITLE VI—GENERAL PROVISIONS*

18 *NONDISCRIMINATORY AVAILABILITY OF DATA*

19 *SEC. 601. (a) Unenhanced land remote sensing satellite*  
20 *data generated by any system operator under the provisions*  
21 *of this Act shall be made available to all users on a nondis-*  
22 *criminatory basis, in accordance with the requirements of*  
23 *this Act.*

24 *(b) For purposes of this title, the term “system operator”*  
25 *means a contractor under title II or III or a licensee under*  
26 *title IV of this Act.*

1       (c) Any system operator shall make publicly available  
 2 the prices, policies, procedures and other terms and condi-  
 3 tions (but not the names of buyers or their purchasers) upon  
 4 which the operator will sell such data.

5                                   ARCHIVING OF DATA

RESTRICTIONS should be  
 in here to comp

6       SEC. 602. (a) It is in the public interest for the United  
 7 States Government to—

8                   (1) maintain an archive of remote sensing satellite  
 9 data for historical, scientific and technical purposes,  
 10 including long-term global environmental monitoring;

11                   (2) control the content and scope of the archive;  
 12 and

13                   (3) assure the quality and continuity of the ar-  
 14 chive.

15       (b) The Secretary shall provide for long term storage,  
 16 maintenance and upgrading of a basic, global, land remote  
 17 sensing data set (hereinafter referred to as the "basic data  
 18 set") and shall follow reasonable archival practices to assure  
 19 proper storage and preservation of the basic data set and  
 20 timely access for parties requesting data. The basic data set  
 21 which the Secretary assembles in the Government archive  
 22 shall remain distinct from any inventory of data which a  
 23 system operator may maintain for sales and for other pur-  
 24 poses.

25       (c) In determining the initial content of, or in upgrad-  
 26 ing, the basic data set, the Secretary shall—

1 (1) use as a baseline the data currently archived;

2 (2) take into account future technical and scientific  
3 developments and needs;

4 (3) consult with and seek the advice of users and  
5 producers of remote sensing data and data products;

6 (4) consider the public's need for data which may  
7 be duplicative in terms of geographical coverage but  
8 which differ in terms of season, spectral bands, resolu-  
9 tion, or other relevant factors;

10 (5) include, as the Secretary considers appropri-  
11 ate, unenhanced remote sensing data generated either  
12 by the Landsat system, pursuant to title III, or by  
13 licensees under title IV of this Act; and

14 (6) include, as the Secretary considers appropri-  
15 ate, data collected by foreign ground stations or by for-  
16 eign remote sensing satellite systems.

New  
Insert new  
Subsection

17 (d) <sup>④ ensure that such system ~~operator~~ is consistent</sup> All original data (or copies of such data) shall, on <sup>upon</sup>  
18 request, be made promptly available to the Secretary by any <sup>w/ conditions developed under</sup>  
19 system operator in a form suitable for processing for data <sup>section</sup>  
20 storage, maintenance and access. The Secretary may (subject <sup>607(a)(6)</sup>  
21 to the availability of appropriations) pay to such system oper-  
22 ator reasonable costs for reproduction and transmittal of any  
23 such data.

24 (e) Any system operator shall have the exclusive right to  
25 sell all data that the operator provides to the United States

1 remote sensing data archive for a period to be determined by  
2 the Secretary, but not to exceed 10 years from the date the  
3 data are sensed. In the case of data generated from the Land-  
4 sat system prior to the implementation of the contract de-  
5 scribed in section 202(a) of this Act, any contractor selected  
6 pursuant to section 202 shall have the exclusive right to  
7 market such data on behalf of the United States Government  
8 for the duration of such contract. A system operator may re-  
9 linquish the operator's exclusive right and consent to distri-  
10 bution from the archive before the period of exclusive right  
11 has expired by terminating the offer to sell particular data.

12 (f) After expiration of such exclusive right to sell, or  
13 after relinquishment of such right, the data provided to the  
14 United States remote sensing data archive shall be in the  
15 public domain and shall be made available to requesting par-  
16 ties by the Secretary at prices reflecting reasonable costs of  
17 reproduction and transmittal.

18 (g) In carrying out the functions of this section, the Sec-  
19 retary shall, to the extent practicable and as provided in  
20 advance by appropriation Acts, use existing Government  
21 facilities.

22 **NONREPRODUCTION**

23 **SEC. 603. Unenhanced land remote sensing data gener-**  
24 **ated by any system operator under the provisions of this Act**  
25 **may be sold on the condition that such data shall not be re-**  
26 **produced and disseminated by the purchaser.**

1                    *REIMBURSEMENT FOR ASSISTANCE*

2            *SEC. 604. The Administrator of the National Aeronau-*  
3 *tics and Space Administration, the Secretary of Defense and*  
4 *the heads of other Federal agencies may provide assistance to*  
5 *operators of remote sensing systems under the provisions of*  
6 *this Act. Substantial assistance shall be reimbursed by the*  
7 *operator, except as otherwise provided by law.*

8                    *ACQUISITION OF EQUIPMENT*

9            *SEC. 605. The Secretary may, by means of a competi-*  
10 *tive process, allow a licensee under section 401 of this Act or*  
11 *any other private party to buy, lease, or otherwise acquire the*  
12 *use of equipment from the Landsat system, when such equip-*  
13 *ment is no longer needed for the operation of such system or*  
14 *for the sale of data from such system. Officials of other Fed-*  
15 *eral civilian agencies are authorized and encouraged to coop-*  
16 *erate with the Secretary in carrying out the provisions of this*  
17 *section.*

18                    *RADIO FREQUENCY ALLOCATION*

19            *SEC. 606. (a) Within 120 days after the date of enact-*  
20 *ment of this Act, the Federal Communications Commission*  
21 *shall determine the frequencies for use by United States*  
22 *Landsat and commercial land remote sensing satellite sys-*  
23 *tems. In making such determination, the Federal Communi-*  
24 *cations Commission shall seek the comments of the Secretary*  
25 *or the Secretary's designated representative.*



1 *Secretary of State shall be responsible for identifying and*  
 2 *notifying the Secretary of those international obligations and*  
 3 *commitments of the United States which are relevant to ac-*  
 4 *tivities under this Act.*

5 *(c) Appropriate Federal agencies are authorized and en-*  
 6 *couraged to provide remote sensing technology and training to*  
 7 *developing nations as components of programs of internation-*

8 *al aid, consistent with ~~sections~~ subsections (a) and*  
 9 *(b) above*

10 *(d) If, as a result of conditions imposed on a system*  
 11 *operator based on national security or international obliga-*  
 12 *tions or policies, the Secretary (in consultation with the Sec-*  
 13 *retary of Defense or the Secretary of State, as appropriate)*  
 14 *determines that additional or development costs will be in-*  
 15 *curred by such system operator, the Secretary may require*  
 16 *any agency requesting the imposition of such conditions to*  
 17 *reimburse the system operator for such costs, excluding an-*  
 18 *ticipated profits.*

18 **AMENDMENT TO THE NATIONAL AERONAUTICS AND**

19 **SPACE ADMINISTRATION AUTHORIZATION ACT, 1983**

20 *SEC. 608. Subsection (a) of section 201 of the National*  
 21 *Aeronautics and Space Administration Authorization Act,*  
 22 *1983 (Public Law 97-324; 96 Stat. 1601) is amended to*  
 23 *read as follows:*

24 *“(a) The Secretary of Commerce is authorized to plan*  
 25 *and provide for the management and operation of civil remote*  
 26 *sensing satellite systems, which may include the Landsat 4*



65

1 *and 5 satellites and associated ground system equipment*  
2 *transferred from the National Aeronautics and Space Ad-*  
3 *ministration; to provide for user fees; and to plan for the*  
4 *transfer of the operation of civil remote sensing satellite sys-*  
5 *tems to the private sector when in the national interest.”.*



Calendar No. 891

98<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**H. R. 5155**

[Report No. 98-458]

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**AN ACT**

To establish a system to promote the use of land  
remote-sensing satellite data, and for other purposes.

MAY 17 (legislative day, MAY 14), 1984

Reported with an amendment