

S 8902

CONGRESSIONAL RECORD — SENATE

June 29, 1984

Mr. LONG. I am not going to be there for one good reason. I can have a better time someplace else. It is not all that much fun.

Mr. RANDOLPH. Mr. President, who has the floor? I would like to make a statement.

Mr. BAKER. I think the Senator from West Virginia.

Mr. RANDOLPH. Mr. President, and my colleagues in the Chamber, we had no problem like this in the Democratic National Convention when we nominated Woodrow Wilson in Baltimore in 1912. I was there at the convention, and I want to report that we would have had no need for legislation of this kind to be discussed, let alone possibly passed by the Congress of the United States. My reference to 1912 is not fantasy. I attended that convention when Woodrow Wilson was nominated over Champ Clark, who was then the Speaker of the House of Representatives.

Mr. DOLE. I will be happy to cosponsor any amendment with the Senator from Louisiana to accomplish his purposes. When would that be effective?

Mr. LONG. Obviously, we cannot do it before the Democratic Convention. I do not care to be partisan about it. I do not want a burden imposed on the Republican Party that is not imposed on the Democratic Party. But I do think starting at the next convention that is how it ought to be. If we spend money, it ought to be for security. Security is becoming an increasing problem. I can understand that. I think the people of the United States can understand that. If you can show this expenditure is for essential security needs, I am sure they would approve of it.

Those cities, by the way, ought to help provide security. As I indicated, I was at the Chicago convention when the antiwar protesters really gave the Democrat a very bad time. It was only because there was a very strong mayor in the city of Chicago that they did not break that convention up. But you cannot expect quite that much of a strong mayor in every city around the United States, and sometimes even with a strong mayor, you may not be able to enforce security, in view of the terrorism and all that which is afoot in the world today.

Mr. DOLE. I have talked to Mr. Jim. He is a very responsible man. I indicated your concern to him less than 15 minutes ago. He indicated that there are many things. One would be some of it to go to the city of Dallas for extra protection; some would go to ushers, maybe. They may not be in uniform, but they are a force as far as orderly conduct in a convention is concerned. I have indicated our reluctance to do the things suggested earlier, and he agreed with that. But he was not prepared to indicate how he would account for every dollar.

I do believe they understand if there is anything that looks like it is improv-

er, it would be difficult to do anything in the future.

Mr. LONG. This is taxpayer money being spent, and it ought to be accounted for just as the President's campaign expenditures have to be accounted for. If there is any irregularity, somebody ought to be accountable. This is not money to be spent just to have a good time.

Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 5950) was ordered to a third reading, was read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, that completes my list. We now must await the receipt of an adjournment resolution from the House of Representatives. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, there is one other matter that I understand has been cleared on both sides for action. That is concurring in a House amendment to the Landsat conference report. I hope we can do that before we leave. While we try to find the papers and the people, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LAND REMOTE-SENSING SATELLITE DATA

Mr. DOLE. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 5155.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 5155) entitled "An Act to establish a system to promote the use of land remote-sensing

satellite data, and for other purposes", with the following amendment: In lieu of the matter inserted by the said amendment, insert:

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

TITLE I—DECLARATION OF FINDINGS, PURPOSES, AND POLICIES

FINDINGS

Sec. 101. The Congress finds and declares that—

(1) the continuous civilian collection and utilization of land remote-sensing data from space are of major benefit in managing the Earth's natural resources and in planning and conducting many other activities of economic importance;

(2) the Federal Government's experimental Landsat system has established the United States as the world leader in land remote-sensing technology;

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

(4) land remote sensing by the Government or private parties of the United States affects international commitments and policies and national security concerns of the United States;

(5) the broadest and most beneficial use of land remote-sensing data will result from maintaining a policy of nondiscriminatory access to data;

(6) competitive, market-driven, private sector involvement in land remote sensing is in the national interest of the United States;

(7) use of land remote-sensing data has been inhibited by slow market development and by the lack of assurance of data continuity;

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

(9) there is doubt that the private sector alone can currently develop a total land remote-sensing system because of the high risk and large capital expenditure involved;

(10) cooperation between the Federal Government and private industry can help assure both data continuity and United States leadership;

(11) the time is now appropriate to initiate such cooperation with phased transition to a fully commercial system;

(12) such cooperation should be structured to involve the minimum practicable amount of support and regulation by Federal Government and the maximum practicable amount of competition by the private sector, while assuring continuous availability to the Federal Government of land remote-sensing data;

(13) certain Government oversight must be maintained to assure that private sector activities are in the national interest and that the international commitments and policies of the United States are honored; and

(14) there is no compelling reason to commercialize meteorological satellites at this time.

PURPOSES

Sec. 102. The purposes of this Act are to—

(1) guide the Federal Government in achieving proper involvement of the private sector by providing a framework for phased commercialization of land remote sensing and by assuring continuous data availability to the Federal Government;

(2) maintain the United States worldwide leadership in civil remote sensing, preserve

June 29, 1984

CONGRESSIONAL RECORD — SENATE

S 8903

its national security, and fulfill its international obligations;

(3) minimize the duration and amount of further Federal investment necessary to assure data continuity while achieving commercialization of civil land remote sensing;

(4) provide for a comprehensive civilian program of research, development, and demonstration to enhance both the United States capabilities for remote sensing from space and the application and utilization of such capabilities; and

(5) prohibit commercialization of meteorological satellites at this time.

POLICIES

Sec. 103. (a) It shall be the policy of the United States to preserve its right to acquire and disseminate unenhanced remote-sensing data.

(b) It shall be the policy of the United States that civilian unenhanced remote-sensing data be made available to all potential users on a nondiscriminatory basis and in a manner consistent with applicable anti-trust laws.

(c) It shall be the policy of the United States both to commercialize those remote-sensing space systems that properly lend themselves to private sector operation and to avoid competition by the Government with such commercial operations, while continuing to preserve our national security, to honor our international obligations, and to retain in the Government those remote-sensing functions that are essentially of a public service nature.

DEFINITIONS

Sec. 104. For purposes of this Act:

(1) The term "Landsat system" means Landsats 1, 2, 3, 4, and 5, and any related ground equipment, systems, and facilities, and any successor civil land remote-sensing space systems operated by the United States Government prior to the commencement of the six-year period described in title III.

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

(3)(A) The term "nondiscriminatory basis" means without preference, bias, or any other special arrangement (except on the basis of national security concerns pursuant to section 607) regarding delivery, format, financing, or technical considerations which would favor one buyer or class of buyers over another.

(B) The sale of data is made on a nondiscriminatory basis only if (i) any offer to sell or deliver data is published in advance in such manner as will ensure that the offer is equally available to all prospective buyers; (ii) the system operator has not established or changed any price, policy, procedure, or other term or condition in a manner which gives one buyer or class of buyer de facto favored access to data; (iii) the system operator does not make unenhanced data available to any purchaser on an exclusive basis; and (iv) in a case where a system operator offers volume discounts, such discounts are no greater than the demonstrable reductions in the cost of volume sales. The sale of data on a nondiscriminatory basis does not preclude the system operator from offering discounts other than volume discounts to the extent that such discounts are consistent with the provisions of this paragraph.

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

(4) The term "unenhanced data" means unprocessed or minimally processed signals or film products collected from civil remote-

sensing space systems. Such minimal processing may include rectification of distortions, registration with respect to features of the Earth, and calibration of spectral response. Such minimal processing does not include conclusions, manipulations, or calculations derived from such signals or film products or combination of the signals or film products with other data or information.

(5) The term "system operator" means a contractor under title II or title III or a licensee holder under title IV.

TITLE II—OPERATION AND DATA MARKETING OF LANDSAT SYSTEM

OPERATION

Sec. 201. (a) The Secretary shall be responsible for—

(1) the Landsat system, including the orbit, operation, and disposition of Landsats 1, 2, 3, 4, and 5; and

(2) provision of data to foreign ground stations under the terms of agreements between the United States Government and nations that operate such ground stations which are in force on the date of commencement of the contract awarded pursuant to this title.

(b) The provisions of this section shall not affect the Secretary's authority to contract for the operation of part or all of the Landsat system, so long as the United States Government retains—

(1) ownership of such system;
(2) ownership of the unenhanced data; and
(3) authority to make decisions concerning operation of the system.

CONTRACT FOR MARKETING OF UNENHANCED DATA

Sec. 202. (a) In accordance with the requirements of this title, the Secretary, by means of a competitive process and to the extent provided in advance by appropriation Acts, shall contract with a United States private sector party (as defined by the Secretary) for the marketing of unenhanced data collected by the Landsat system. Any such contract—

(1) shall provide that the contractor set the prices of unenhanced data;

(2) may provide for financial arrangements between the Secretary and the contractor including fees for operating the system, payments by the contractor as an initial fee or as a percentage of sales receipts, or other such considerations;

(3) shall provide that the contractor will offer to sell and deliver unenhanced data to all potential buyers on a nondiscriminatory basis;

(4) shall provide that the contractor pay to the U.S. Government the full purchase price of any unenhanced data that the contractor elects to utilize for purposes other than sale;

(5) shall be entered into by the Secretary only if the Secretary has determined that such contract is likely to result in net cost savings for the U.S. Government; and

(6) may be reawarded competitively after the practical demise of the space segment of the Landsat system, as determined by the Secretary.

(b) Any contract authorized by subsection (a) may specify that the contractor use, and, at his own expense, maintain, repair, or modify, such elements of the Landsat system as the contractor finds necessary for commercial operations.

(c) Any decision or proposed decision by the Secretary to enter into any such contract shall be transmitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science and Technology of the House of Rep-

resentatives for their review. No such decision or proposed decision shall be implemented unless (A) a period of 30 calendar days has passed after the receipt by each such committee of such transmittal, or (B) each such committee before the expiration of such period has agreed to transmit and has transmitted to the Secretary written notice to the effect that such committee has no objection to the decision or proposed decision. As part of the transmittal, the Secretary shall include information on the terms of the contract described in subsection (a).

(d) In defining "United States private sector party" for purposes of this Act, the Secretary may take into account the citizenship of key personnel, location of assets, foreign ownership, control, influence, and other such factors.

CONDITIONS OF COMPETITION FOR CONTRACT

Sec. 203. (a) The Secretary shall, as part of the advertisement for the competition for the contract authorized by section 202, identify and publish the international obligations, national security concerns (with appropriate protection of sensitive information), domestic legal considerations, and any other standards or conditions which a private contractor shall be required to meet.

(b) In selecting a contractor under this title, the Secretary shall consider—

(1) ability to market aggressively unenhanced data;
(2) the best overall financial return to the Government, including the potential cost savings to the Government that are likely to result from the contract;

(3) ability to meet the obligations, concerns, considerations, standards, and conditions identified under subsection (a);

(4) technical competence, including the ability to assure continuous and timely delivery of data from the Landsat system;

(5) ability to effect a smooth transition with the contractor selected under title III; and

(6) such other factors as the Secretary deems appropriate and relevant.

(c) If, as a result of the competitive process required by section 202(a), the Secretary receives no proposal which is acceptable under the provisions of this title, the Secretary shall so certify and fully report such finding to the Congress. As soon as practicable but not later than 30 days after so certifying and reporting the Secretary shall reopen the competitive process. The period for the subsequent competitive process shall not exceed 120 days. If, after such subsequent competitive process, the Secretary receives no proposal which is acceptable under the provisions of this title, the Secretary shall so certify and fully report such finding to the Congress. In the event that no acceptable proposal is received, the Secretary shall continue to market data from the Landsat system.

(d) A contract awarded under section 202 may, in the discretion of the Secretary, be combined with the contract required by title III, pursuant to section 304(b).

SALE OF DATA

Sec. 204. (a) After the date of the commencement of the contract described in section 202(a), the contractor shall be entitled to revenues from sales of copies of data from the Landsat system, subject to the conditions specified in sections 601 and 602.

(b) The contractor may continue to market data previously generated by the Landsat system after the demise of the space segment of that system.

FOREIGN GROUND STATIONS

Sec. 205. (a) The contract under this title shall provide that the contractor shall act

S 8904

CONGRESSIONAL RECORD — SENATE

June 29, 1984

as the agent of the Secretary by continuing to supply unenhanced data to foreign ground stations for the life, and according to the terms, of those agreements between the United States Government and such foreign ground stations that are in force on the date of the commencement of the contract.

(b) Upon the expiration of such agreements, or in the case of foreign ground stations that have no agreement with the United States on the date of commencement of the contract, the contract shall provide—

(1) that unenhanced data from the Landsat system shall be made available to foreign ground stations only by the contractor; and

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

TITLE III—PROVISION OF DATA CONTINUITY AFTER THE LANDSAT SYSTEM

PURPOSES AND DEFINITION

Sec. 301. (a) It is the purpose of this title—

(1) to provide, in an orderly manner and with minimal risk, for a transition from Government operation to private, commercial operation of civil land remote-sensing systems; and

(2) to provide data continuity for six years after the practical demise of the space segment of the Landsat system.

(b) For purposes of this title, the term "data continuity" means the continued availability of unenhanced data—

(1) including data which are from the point of view of a data user—

(A) functionally equivalent to the multispectral data generated by the Landsat 1 and 2 satellites; and

(B) compatible with such data and with equipment used to receive and process such data; and

(2) at an annual volume at least equal to the Federal usage during fiscal year 1983.

(c) Data continuity may be provided using whatever technologies are available.

DATA CONTINUITY AND AVAILABILITY

Sec. 302. The Secretary shall solicit proposals from United States private sector parties (as defined by the Secretary pursuant to section 202) for a contract for the development and operation of a remote-sensing space system capable of providing data continuity for a period of six years and for marketing unenhanced data in accordance with the provisions of sections 601 and 602. Such proposals, at a minimum, shall specify—

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

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

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

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

(5) any percentage of sales receipts or other returns offered to the Federal Government;

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

(7) the proposed procedures for meeting the national security concerns and international obligations of the United States in accordance with section 607.

AWARDING OF THE CONTRACT

Sec. 303. (a)(1) In accordance with the requirements of this title, the Secretary shall evaluate the proposals described in section 302 and, by means of a competitive process and to the extent provided in advance by appropriation Acts, shall contract with a United States private sector party for the capability of providing data continuity for a

period of six years and for marketing unenhanced data.

(2) Before commencing space operations the contractor shall obtain a license under title IV.

(b) As part of the evaluation described in subsection (a), the Secretary shall analyze the expected outcome of each proposal in terms of—

(1) the net cost to the Federal Government of developing the recommended system;

(2) the technical competence and financial condition of the contractor;

(3) the availability of such data after the expected termination of the Landsat system;

(4) the quantities and qualities of data to be generated by the recommended system;

(5) the contractor's ability to supplement the requirement for data continuity by adding, at the contractor's expense, remote-sensing capabilities which maintain United States leadership in remote sensing;

(6) the potential to expand the market for data;

(7) expected returns to the Federal Government based on any percentage of data sales or other such financial consideration offered to the Federal Government in accordance with section 305;

(8) the commercial viability of the proposal;

(9) the proposed procedures for satisfying the national security concerns and international obligations of the United States;

(10) the contractor's ability to effect a smooth transition with any contractor selected under title II; and

(11) such other factors as the Secretary deems appropriate and relevant.

(c) Any decision or proposed decision by the Secretary to enter into any such contract shall be transmitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science and Technology of the House of Representatives for their review. No such decision or proposed decision shall be implemented unless (1) a period of 30 calendar days has passed after the receipt by each such committee of such transmittal, or (2) each such committee before the expiration of such period has agreed to transmit and has transmitted to the Secretary written notice to the effect that such committee has no objection to the decision or proposed decision. As part of the transmittal, the Secretary shall include the information specified in subsection (a).

(d) If, as a result of the competitive process required by this section, the Secretary receives no proposal which is acceptable under the provisions of this title, the Secretary shall so certify and fully report such finding to the Congress. As soon as practicable but not later than 30 days after so certifying and reporting, the Secretary shall reopen the competitive process. The period for the subsequent competitive process shall not exceed 180 days. If, after such subsequent competitive process, the Secretary receives no proposal which is acceptable under the provisions of this title, the Secretary shall so certify and fully report such finding to the Congress. Not earlier than 90 days after such certification and report, the Secretary may assure data continuity by procurement and operation by the Federal Government of the necessary systems, to the extent provided in advance by appropriation Acts.

TERMS OF CONTRACT

Sec. 304. (a) Any contract entered into pursuant to this title—

(1) shall be entered into as soon as practicable, allowing for the competitive procurement process required by this title;

(2) shall, in accordance with criteria determined and published by the Secretary, reasonably assure data continuity for a period of six years, beginning as soon as practicable in order to minimize any interruption of data availability;

(3) shall provide that the contractor will offer to sell and deliver unenhanced data to all potential buyers on a nondiscriminatory basis;

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

(5) may provide that the contractor utilize, on a space-available basis, a civilian United States Government satellite or vehicle as a platform for a civil land remote-sensing space system, if—

(A) the contractor agrees to reimburse the Government immediately for all related costs incurred with respect to such utilization, including a reasonable and proportionate share of fixed, platform, data transmission, and launch costs; and

(B) such utilization would not interfere with or otherwise compromise intended civilian Government missions, as determined by the agency responsible for the civilian platform; and

(6) may provide financial support by the United States Government, for a portion of the capital costs required to provide data continuity for a period of six years, in the form of loans, loan guarantees, or payments pursuant to section 305 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 255).

(b)(1) Without regard to whether any contract entered into under this title is combined with a contract under title II, the Secretary shall promptly determine whether the contract entered into under this title reasonably effectuates the purposes and policies of title II. Such determination shall be submitted to the President and the Congress, together with a full statement of the basis for such determination.

(2) If the Secretary determines that such contract does not reasonably effectuate the requirements of title II, the Secretary shall promptly carry out the provisions of such title to the extent provided in advance in appropriations acts.

MARKETING

Sec. 305. (a) In order to promote aggressive marketing of land remote-sensing data, any contract entered into pursuant to this title may provide that the percentage of sales paid by the contractor to the Federal Government shall decrease according to stipulated increases in sales levels.

(b) After the six-year period described in section 304(a)(2), the contractor may continue to sell data. If licensed under title IV, the contractor may continue to operate a civil remote-sensing space system.

REPORT

Sec. 306. Two year after the date of the commencement of the six-year period described in section 304(a)(2), the Secretary shall report to the President and to the Congress on the progress of the transition to fully private financing, ownership, and operation of remote-sensing space systems, together with any recommendations for actions, including actions necessary to ensure United States leadership in civilian land remote sensing from space.

TERMINATION OF AUTHORITY

Sec. 307. The authority granted to the Secretary by this title shall terminate 10 years after the date of enactment of this Act.

June 29, 1984

CONGRESSIONAL RECORD — SENATE

S 8905

TITLE IV—LICENSING OF PRIVATE
REMOTE-SENSING SPACE SYSTEMS

GENERAL AUTHORITY

Sec. 410. (a)(1) In consultation with other appropriate Federal agencies, the Secretary is authorized to license private sector parties to operate private remote-sensing space systems for such period as the Secretary may specify and in accordance with the provisions of this title.

(2) In the case of a private space system that is used for remote sensing and other purposes, the authority of the Secretary under this title shall be limited only to the remote-sensing operations of such space system.

(b) No license shall be granted by the Secretary unless the Secretary determines in writing that the applicant will comply with the requirements of this Act, any regulations issued pursuant to this Act, and any applicable international obligations and national security concerns of the United States.

(c) The Secretary shall review any application and make a determination thereon within 120 days of the receipt of such application. If final action has not occurred within such time, the Secretary shall inform the applicant of any pending issues and of actions required to resolve them.

(d) The Secretary shall not deny such license in order to protect any existing licensee from competition.

CONDITIONS FOR OPERATION

Sec. 401. (a) No person who is subject to the jurisdiction or control of the United States may, directly or through any subsidiary or affiliate, operate any private remote-sensing space system without a license pursuant to section 401.

(b) Any license issued pursuant to this title shall specify, at a minimum, that the licensee shall comply with all of the requirements of this Act and shall—

(1) operate the system in such manner as to preserve and promote the national security of the United States and to observe and implement the international obligations of the United States in accordance with section 607;

(2) make unenhanced data available to all potential users on a nondiscriminatory basis;

(3) upon termination of operations under the license, make disposition of any satellites in space in a manner satisfactory to the President;

(4) promptly make available all unenhanced data which the Secretary may request pursuant to section 602;

(5) furnish the Secretary with complete orbit and data collection characteristics of the system, obtain advance approval of any intended deviation from such characteristics, and inform the Secretary immediately of any unintended deviation;

(6) notify the Secretary of any agreement the licensee intends to enter with a foreign nation, entity, or consortium involving foreign nations or entities;

(7) permit the inspection by the Secretary of the licensee's equipment, facilities, and financial records;

(8) surrender the license and terminate operations upon notification by the Secretary pursuant to section 403(a)(1); and

(9)(A) notify the Secretary of any "value added" activities (as defined by the Secretary by regulation) that will be conducted by the licensee or by a subsidiary or affiliate; and

(B) if such activities are to be conducted, provide the Secretary with a plan for compliance with the provisions of this Act concerning nondiscriminatory access.

ADMINISTRATIVE AUTHORITY OF THE SECRETARY

Sec. 403. (a) In order to carry out the responsibilities specified in this title, the Secretary may—

(1) grant, terminate, modify, condition, transfer, or suspend licenses under this title, and upon notification of the licensee may terminate licensed operations on an immediate basis, if the Secretary determines that the licensee has substantially failed to comply with any provision of this Act, with any regulation issued under this Act, with any terms, conditions, or restrictions of such license, or with any international obligations or national security concerns of the United States;

(2) inspect the equipment, facilities, or financial records of any licensee under this title;

(3) provide penalties for noncompliance with the requirements of licenses or regulations issued under this title, including civil penalties not to exceed \$10,000 (each day of operation in violation of such licenses or regulations constituting a separate violation);

(4) compromise, modify, or remit any such civil penalty;

(5) issue subpoenas for any materials, documents, or records, or for the attendance and testimony of witnesses for the purpose of conducting a hearing under this section;

(6) seize any object, record, or report where there is probable cause to believe that such object, record, or report was used, is being used, or is likely to be used in violation of this Act or the requirements of a license or regulation issued thereunder; and

(7) make investigations and inquiries and administer to or take from any person an oath, affirmation, or affidavit concerning any matter relating to the enforcement of this Act.

(b) Any applicant or licensee who makes a timely request for review of an adverse action pursuant to subsections (a)(1), (a)(3), or (a)(6) shall be entitled to adjudication by the Secretary on the record after an opportunity for an agency hearing with respect to such adverse action. Any final action by the Secretary under this subsection shall be subject to judicial review under chapter 7 of title 5, United States Code.

REGULATORY AUTHORITY OF THE SECRETARY

Sec. 404. The Secretary may issue regulations to carry out the provisions of this title. Such regulations shall be promulgated only after public notice and comment in accordance with the provisions of section 553 of title 5, United States Code.

AGENCY ACTIVITIES

Sec. 405. (a) A private sector party may apply for a license to operate a private remote-sensing space system which utilizes, on a space available basis, a civilian United States Government satellite or vehicle as a platform for such system. The Secretary, pursuant to the authorities of this title, may license such system if it meets all conditions of this title and—

(1) the system operator agrees to reimburse the Government immediately for all related costs incurred with respect to such utilization, including a reasonable and proportionate share of fixed, platform, data transmission, and launch costs; and

(2) such utilization would not interfere with or otherwise compromise intended civilian Government missions, as determined by the agency responsible for such civilian platform.

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

(c) To the extent provided in advance by appropriation Acts, any Federal agency may

enter into agreements for such utilization if such agreements are consistent with such agency's mission and statutory authority, and if such remote-sensing space system is licensed by the Secretary before commencing operation.

(d) The provisions of this section do not apply to activities carried out under title V.

(e) Nothing in this title shall affect the authority of the Federal Communications Commission pursuant to the Communications Act of 1934, as amended (47 U.S.C. 151 et seq.).

TERMINATION

Sec. 406. If, five years after the expiration of the six-year period described in section 304(a)(2), no private sector party has been licensed and continued in operation under the provisions of this title, the authority of this title shall terminate.

TITLE V—RESEARCH AND
DEVELOPMENTCONTINUED FEDERAL RESEARCH AND
DEVELOPMENT

Sec. 501. (a)(1) The Administrator of the National Aeronautics and Space Administration is directed to continue and to enhance such Administration's programs of remote-sensing research and development.

(2) The administrator is authorized and encouraged to—

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

(B) develop remote-sensing technologies and techniques, including those needed for monitoring the Earth and its environment; and

(C) conduct such research and development in cooperation with other Federal agencies and with public and private research entities (including private industry, universities, State and local governments, foreign governments, and international organizations) and to enter into arrangements (including joint ventures) which will foster such cooperation.

(b)(1) The Secretary is directed to conduct a continuing program of—

(A) research in applications of remote-sensing;

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

(C) development of technology for such monitoring.

(2) Such program may include support of basic research at universities and demonstrations of applications.

couraged to conduct such research, monitoring, and development in cooperation with other Federal agencies and with public and private research entities (including private industry, universities, State and local governments, foreign governments, and international organizations) and to enter into arrangements (including joint ventures) which will foster such cooperation.

(c)(1) In order to enhance the United States ability to manage and utilize its renewable and nonrenewable resources, the Secretary of Agriculture and the Secretary of the Interior are authorized and encouraged to conduct programs of research and development in the applications of remote sensing using funds appropriated for such purposes.

(2) Such programs may include basic research at universities, demonstrations of applications, and cooperative activities involving other government agencies, private sector parties, and foreign and international organizations.

(d) Other Federal agencies are authorized and encouraged to conduct research and development on the use of remote sensing in

S 8906

CONGRESSIONAL RECORD — SENATE

June 29, 1984

fulfillment of their authorized missions, using funds appropriated for such purposes.

(e) The Secretary and the Administrator of the National Aeronautics and Space Administration shall, within one year after the date of enactment of this Act and biennially thereafter, jointly develop and transmit to the Congress a report which includes (1) a unified national plan for remote-sensing research and development applied to the Earth and its atmosphere; (2) a compilation of progress in the relevant ongoing research and development activities of the Federal agencies; and (3) an assessment of the state of our knowledge of the Earth and its atmosphere, the needs for additional research (including research related to operational Federal remote-sensing space programs), and opportunities available for further progress.

USE OF EXPERIMENTAL DATA

Sec. 502. Data gathered in Federal experimental remote sensing space programs may be used in related research and development programs funded by the Federal Government (including applications programs) and cooperative research programs, but not commercial uses or in competition with private sector activities, except pursuant to section 503.

SALE OF EXPERIMENTAL DATA

Sec. 503. Data gathered in Federal experimental remote sensing space programs may be sold en bloc through a competitive process (consistent with national security interest and international obligations of the United States and in accordance with section 607) to any United States entity which will market the data on nondiscriminatory basis.

TITLE VI—GENERAL PROVISIONS

NONDISCRIMINATORY DATA AVAILABILITY

Sec. 601. (a) Any unenhanced data generated by any system operator under the provisions of this Act shall be made available to all users on a nondiscriminatory basis in accordance with the requirements of this Act.

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

ARCHIVING OF DATA

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

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

(2) to control the content and scope of the archive; and

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

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

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

(1) use as a baseline the data archived on the date of enactment of this Act;

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

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

(4) consider the need for data which may be duplicative in terms of geographical coverage but which differ in terms of season, spectral bands, resolution, or other relevant factors;

(5) include, as the Secretary considers appropriate, unenhanced data generated either by the Landsat system, pursuant to title III, or by licensees under title IV;

(6) include, as the Secretary considers appropriate, data collected by foreign ground stations or by foreign remote-sensing space systems; and

(7) ensure that the content of the archive is developed in accordance with section 607.

(d) Subject to the availability of appropriations, the Secretary shall request data needed for the basis data set and pay to the providing system operator reasonable costs for reproduction and transmission. A system operator shall promptly make requested data available in a form suitable for processing for archiving.

(e) Any system operator shall have the exclusive right to sell all data that the operator provides to the United States remote-sensing data archive for a period to be determined by the Secretary but not to exceed ten years from the date the data are sensed. In the case of data generated from the Landsat system prior to the implementation of the contract described in section 202(a), any contractor selected pursuant to section 202 shall have the exclusive right to market such data on behalf of the United States Government for the duration of such contract. A system operator may relinquish the exclusive right and consent to distribution from the archive before the period of exclusive right has expired by terminating the offer to sell particular data.

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

(g) In carrying out the functions of this section, the Secretary shall, to the extent practicable and as provided in advance by appropriation Acts, use existing Government facilities.

NONREPRODUCTION

Sec. 603. Unenhanced data distributed by any system operator under the provisions of this Act may be sold on the condition that such data will not be reproduced or disseminated by the purchaser.

REIMBURSEMENT FOR ASSISTANCE

Sec. 604. The Administrator of the National Aeronautics and Space Administration, the Secretary of Defense and the heads of other Federal agencies may provide assistance to system operators under the provisions of this Act. Substantial assistance shall be reimbursed by the operator, except as otherwise provided by law.

ACQUISITION OF EQUIPMENT

Sec. 605. The Secretary may, by means of a competitive process, allow a licensee under title IV or any other private party to buy, lease, or otherwise acquire the use of equipment from the Landsat system, when such equipment is no longer needed for the operation of such system or for the sale of data from such system. Officials of other Federal civilian agencies are authorized and encouraged to cooperate with the Secretary in carrying out the provisions of this section.

RADIO FREQUENCY ALLOCATION

Sec. 606. (a) Within 30 days after the date of enactment of this Act, the President (or the President's delegate, if any, with authority over the assignment of frequencies to radio stations or classes of radio stations operated by the United States) shall make available for non-governmental use spectrum presently allocated to government use, for use by United States Landsat and commercial remote-sensing space systems. The spectrum to be so made available shall conform to any applicable international radio or wire treaty or convention, or regulations annexed thereto. Within 90 days thereafter, the Federal Communications Commission shall utilize appropriate procedures to authorize the use of such spectrum for non-governmental use. Nothing in this section shall preclude the ability of the Commission to allocate additional spectrum to commercial land remote-sensing space satellite system use.

(b) To the extent required by the Communications Act of 1934, as amended (47 U.S.C. 151 et. seq.), an application shall be filed with the Federal Communications Commission for any radio facilities involved with the commercial remote-sensing space system.

(c) It is the intent of Congress that the Federal Communications Commission complete the radio licensing process under the Communications Act of 1934, as amended (47 U.S.C. 151 et. seq.), upon the application of any private sector party or consortium operator of any commercial land remote-sensing space system subject to this Act, within 120 days of the receipt of an application for such licensing. If final action has not occurred within 120 days of the receipt of such an application, the Federal Communications Commission shall inform the applicant of any pending issues and of actions required to resolve them.

(d) Authority shall not be required from the Federal Communications Commission for the development and construction of any United States land remote-sensing space system (or component thereof), other than radio transmitting facilities or components, while any licensing determination is being made.

(e) Frequency allocations made pursuant to this section by the Federal Communications Commission shall be consistent with international obligations and with the public interest.

CONSULTATION

Sec. 607. (a) The Secretary shall consult with the Secretary of Defense on all matters under this Act affecting national security. The Secretary of Defense shall be responsible for determining those conditions, consistent with this Act, necessary to meet national security concerns of the United States and for notifying the Secretary promptly of such conditions.

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

(2) Appropriate Federal agencies are authorized and encouraged to provide remote-sensing data, technology, and training to developing nations as a component of programs of international aid.

(3) The Secretary of State shall promptly report to the Secretary any instances outside the United States of discriminatory distribution of data.

June 29, 1984

CONGRESSIONAL RECORD — SENATE

S 8907

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

AMENDMENT TO NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AUTHORIZATION, 1983

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

"(a) The Secretary of Commerce is authorized to plan and provide for the management and operation of civil remote-sensing space systems, which may include the Landsat 4 and 5 satellites and associated ground system equipment transferred from the National Aeronautics and Space Administration; to provide for user fees; and to plan for the transfer of the operation of civil remote-sensing space systems to the private sector when in the national interest."

AUTHORIZATION OF APPROPRIATIONS

Sec. 609. (a) There are authorized to be appropriated to the Secretary \$75,000,000 for fiscal year 1985 for the purpose of carrying out the provisions of this Act. Such sums shall remain available until expended, but shall not become available until the time periods specified in sections 202(c) and 303(c) have expired.

(b) The authorization provided for under subsection (a) shall be in addition to moneys authorized pursuant to title II of the National Aeronautics and Space Administration Authorization Act, 1983.

TITLE VII—PROHIBITION OF COMMERCIALIZATION OF WEATHER SATELLITES

PROHIBITION

Sec. 701. Neither the President nor any other official of the Government shall make any effort to lease, sell, or transfer to the private sector, commercialize, or in any way dismantle any portion of the weather satellite systems operated by the Department of Commerce or any successor agency.

FUTURE CONSIDERATIONS

Sec. 702. Regardless of any change in circumstances subsequent to the enactment of this Act, even if such change makes it appear to be in the national interest to commercialize weather satellites, neither the President nor any official shall take any action prohibited by section 701 unless this title has first been repealed.

Mr. GORTON subsequently said: Mr. President, I ask my colleagues to support the House amendments, which represent a compromise between the Senate and the House versions of H.R. 5155, the Land Remote-Sensing Commercialization Act of 1984. The Senate and House bills were quite similar, and the amended bill is not substantially different than H.R. 5155 as passed unanimously by the Senate earlier this month.

This legislation authorizes the phased transfer of land remote-sensing capabilities from the Federal Government to the private sector. Further, the legislation provides a framework for a new remote-sensing industry, balancing national security concerns and international commitments with private, commercial interests.

Many issues and concerns have been discussed since last year when the President proposed to commercialize the Federal Government's Landsat system. Mr. President, I have been favorably impressed with the input this legislation has drawn from Federal agencies, data users, State and local governments, and private industry, all of which have a genuine interest in the commercialization process. Every effort has been made in developing this legislation to balance these interests, and I feel that all concerned parties are satisfied with the legislation.

I would like to describe for my colleagues the evolution of the legislation since I introduced it as S. 2292 on February 9, 1984.

On March 22, 1984, I chaired a hearing on Landsat commercialization before the Science, Technology, and Space Subcommittee of the Commerce Committee. The subcommittee received legislative recommendations from representatives of the Federal agencies, private industry, and data users. I am very grateful for their invaluable assistance in shaping the legislation to its present form.

After the hearing, I worked with my colleagues on the Commerce Committee to develop legislation acceptable to members of the committee and the entire Senate. I am particularly appreciative of the assistance of Senators HOLLINGS and PRESSLER, who each had introduced their own Landsat bills and contributed significantly to the development of this bill.

On May 8, 1984 the bill was unanimously approved by the Commerce Committee as an amendment in the nature of a substitute to its companion, H.R. 5155. The marked-up bill was passed unanimously by the Senate on June 8, 1984.

As I stated, the compromise bill we are considering today is not significantly different from H.R. 5155 as passed by the Senate and has been agreed to by pertinent Members from both Houses of Congress.

Most of the provisions contained in the compromise amendments are drawn from H.R. 5155 either as originally passed by the House or as amended by the Senate; the intent of such provisions is clearly explained in House Report 98-647 or Senate Report 98-458. However, in a number of instances, the language in the compromise amendments does differ from that contained in either the House- or Senate-passed bills. The following paragraphs described these cases where new language appears in the compromise amendment in order to explain congressional intent with re-

spect to commercialization of civil remote-sensing space systems.

Section 104(4). "Unenhanced data" has been redefined to make it clear that such data need not include even the minimal processing described in the House-passed definition.

Section 201(a)(2). "Agreements" rather than "Memoranda of Understanding" is used, as in section 205, to describe arrangements for data exchange between the U.S. Government and foreign ground stations. "Agreements" is a broader term than "Memoranda of Understanding," but clearly includes the latter. The broader term is used in order to include all such relevant arrangements whether or not they are called Memoranda of Understanding. Procedures contained therein because of the unusual, even unique, nature of this phased transfer of an operation from Government to private sector responsibility. Thus, the Congress intends these provisions to take precedence over and to supplement other general procurement law.

Section 202(a)(2). Language regarding the title II contract has been changed to indicate that under such contract, funds could flow either from the Government to the contractor—if the contractor operated the Landsat system in addition to marketing Landsat data—or from the contractor to the Government—if the contractor only marketed Landsat data.

Sections 202(c) and 303(c). Senate language on notification of the Congress regarding the title II and title III contracts has been altered slightly. The "report-and-wait" period has been shortened from 30 days of continuous session of Congress to 30 calendar days, in recognition of the delays which could be imposed on the commercialization process by a requirement to wait for 30 days of continuous session of Congress.

Section 301(b). The original House definition of "MSS data" has been replaced by a definition of "data continuity." Under the new definition, it is clear that the title III contractor is required to meet minimum performance standards, including provision of unenhanced data that meet "compatibility" and "functionally equivalent" standards. The contractor is not required to develop any particular type or level of technology.

Section 303(a)(2). This new subsection makes it clear that the title III contractor must acquire a license under title IV.

Section 303(d). If the Secretary receives no acceptable proposal under title III, it is the clear intent of the Congress that the Secretary should assure data continuity by developing a land remote-sensing space system to be procured and operated by the Federal Government.

Section 304(a)(6). Support of the title III contractor by the Federal Government has been limited to loans, loan guarantees, or direct subsidies by

S 8908

CONGRESSIONAL RECORD — SENATE

June 29, 1984

removal of language in the Senate amendment which referred to "other financial considerations."

Section 401(a)(2). This new subsection indicates that the licensing authority of the Secretary, in the case of multiple-use space systems, extends only to the remote-sensing portions of such systems.

Section 401(d) and 403(a). The Secretary may deny or condition a license on the basis of national security, international commitments and obligations, or noncompliance with nondiscriminatory access, but not in order to limit competition.

Section 402(b)(6). The original Senate amendment stipulated that the licensee obtain advance approval from the Secretary of any agreement with a foreign entity. In an attempt to balance considerations of commercial viability with the sensitivities involved in international remote sensing, this language has been changed to require only notification of the Secretary of such agreements.

Sections 402(b)(7) and 403(a)(2). The Secretary is authorized to inspect the licensee's equipment, facilities, or financial records. It is intended that the Secretary's authority to inspect financial records be adequate to ensure that the licensee is in compliance with provisions of the act relating to nondiscriminatory access to unenhanced data.

Section 403(a)(6). In light of the international sensitivities involved in remote sensing and the transportability of remote-sensing hardware, the Secretary is given authority for seizure of objects, records, or reports. However, the standard for seizure has been tightened from the House-passed "reasonable appearance" to the more stringent "probable cause."

Section 501(c). Section 501(b) of the Senate amendment has been divided into section 501(b) and section 501(c) to highlight the differing, but complementary, roles in research and development of the Secretary, which appear in section 501(b), and the Secretaries of Agriculture and Interior, which appear in section 501(c).

Sections 601(a) and 104(3). Section 601(a) has changed little during legislative action on H.R. 5155. It is noted here only to emphasize the clear congressional intent that any system operator make unenhanced data available on a nondiscriminatory basis. Thus, for example, a company could not be licensed to operate, and to retain exclusive use of data from, a private remote-sensing space system, even if the company financed, launched, and operated such system in its entirety.

Section 602(d). This section has been redrafted to clarify that the Secretary may not demand data from a system operator for archival purposes unless the Secretary has available appropriated funds to pay such system operator for the costs of reproducing and transmitting the data.

Section 603. A system operator may provide that data not be reproduced or disseminated by any purchaser. However, during the life of existing memoranda of understanding, this provision is not intended to abrogate the authority of foreign ground-station operators with respect to the dissemination of land remote-sensing data.

Section 606. The Senate amendment has been altered to clarify the authority of the Federal Communications Commission to license use of radio facilities by private remote-sensing space systems after the President has made available spectrum for use by such systems.

Section 607(c). This subsection has been redrafted to clarify that reimbursements may cover only costs associated with technical changes in system performance imposed in light of national security concerns. Reimbursement would not cover costs ordinarily associated with the economic and political risks of doing business abroad. Thus, a system operator would not be reimbursed if he were temporarily forbidden to conduct business in a given country. Reimbursements apply only to private sector parties who have obtained a license pursuant to title IV.

Section 609. An authorization of \$75 million is provided for fiscal year 1985, which will be expended largely for development of the land remote/sensing system pursuant to title III. It is expected that the Secretary will submit a supplemental budget request to the Congress during fiscal year 1985 for the financial support authorized under title III, and the level of funding under this section would enable the Secretary to proceed without delay. Any authorization under this section remaining after fiscal year 1985 may be expended by the Secretary in future fiscal years.

Again, these provisions are ones that have not already been clarified by either the Senate or House report. None represent major changes from the Senate version of the bill.

In conclusion, I wish to update my colleagues on the other aspect of the Landsat commercialization process. The Department of Commerce has already solicited and received bids from private parties on development of a follow-on system to Landsat. A decision on the bids by the Secretary of Commerce was expected earlier this month. The Secretary announced today that a decision still has not been reached, and will not be until late this summer.

Mr. President, I hope that the Department will quickly, as the Congress has, so that a follow-on system to Landsat can be developed in time to preserve data continuity. With the enabling legislation in place, a timely decision by the Department, consistent with the legislation, will lead to successful commercialization of Landsat.

● Mr. HOLLINGS. Mr. President, I compliment the distinguished chair-

man of the Science, Technology, and Space Subcommittee [Mr. GORTON] for the excellent job that he has done with the Landsat legislation, H.R. 5155. I strongly support this measure.

The informal agreement reached by the House and Senate has produced a carefully crafted bill that balances the concerns of users and operators, safeguards national security and foreign policy interests, promotes commercialization, and sustains important Federal research and development activities in land remote sensing. Enactment of this bill should facilitate the commercialization of land remote sensing.

I do have a concern with the commercialization process. Frankly, I am worried when I look at the trade press and see where a Federal subsidy of \$1 billion may be required over the next 6 years to commercialize the Landsat system. This is quite a large amount of money and far exceeds any level of funding that I had anticipated. I hope that the trade press accounts are exaggerated. However, in order to ensure that the commercialization process is carried out in compliance with the legislation, I have asked the Comptroller General of the United States to do an immediate evaluation of the contractual proposal and to assess its compliance with the policies established in this legislation, its impact on the Federal budget, and its impact on the future development of land remote sensing in the United States.

Mr. President, I support H.R. 5155 and recommend that this bill be passed and sent to the President for signature.●

Mr. DOLE. Mr. President, I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. Is there objection? Without objection, the motion is agreed to.

ADOLESCENT FAMILY LIFE DEMONSTRATION PROGRAM EXTENSION

Mr. DOLE. Mr. President, I ask the Chair lay before the Senate Calendar No. 940, S. 2616.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2616) to extend the Adolescent Family Life Demonstration Program.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Labor and Human Resources with amendments, as follows:

On page 1, line 6, after "year" insert "ending September 30,".

On page 2, lines 1 and 2, after "year" insert "ending September 30,".

On page 2, after line 2, insert:

(b) Section 2001(a)(5) of such Act is amended to read as follows:

"(5) pregnancy and childbirth among unmarried adolescents, particularly young ado-