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Office of Legislative Liaison Routing Slip

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EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

OLL #
84-0952

SPECIAL

February 22, 1984

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer

- Department of the Interior
- Department of Commerce
- Office of Science and Technology Policy
- Department of Defense
- Federal Communications Commission
- General Services Administration
- Department of Justice
- Department of State
- Department of Agriculture
- Central Intelligence Agency
- National Aeronautics and Space Administration
- National Security Council
- Department of Transportation

SUBJECT: Defense and State proposed reports on H.R. 4836/Land Remote-Sensing Commercialization Act of 1984 (N.B. Hearings on H.R. 4836 have been scheduled by the House Science and Technology Committee for March 6, 1984)

The Office of Management and Budget requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

Please provide us with your views no later than

COB FRIDAY, MARCH 3, 1984. ORAL COMMENTS ARE ACCEPTABLE.

Direct your questions to William A. Maxwell (395-3890), the legislative analyst in this office.

N.B. NASA REPORT ON H.R. 4836 ALSO INCLUDED

James C. Murr for
Assistant Director for
Legislative Reference

Enclosures

- cc: S. Gudes
- D. Taft
- T. Sprehe
- A. Donahue
- J. Struthers
- P. Szervo
- B. Hughes



Honorable James H. Scheuer
Chairman, Subcommittee on Natural
Resources, Agriculture Research
and Environment
Committee on Science and Technology
House of Representatives
Washington, D. C. 20515

Dear Mr. Chairman:

Thank you for the opportunity to review and comment on
H.R. 4836, "Land Remote-Sensing Commercialization Act of
1984."

H.R. 4836 will achieve the purposes it is intended to
satisfy, and with minor exceptions I concur with this legisla-
tion as it is written. Suggested changes are enclosed.

Again, I appreciate the opportunity to comment on this
important and pertinent matter.

Sincerely,

Enclosure

Comments on H.R. 4836

1. Page 30, Sec 604.

Para (a), line 6: Add the following sentence: Reimbursements for such assistance under the provisions of this Act shall be credited to the appropriations against which charges have been made for providing such assistance.

Rationale: The intention is to ensure that the agency which provides the assistance is credited with the amount of the reimbursement for such assistance.

Page 31, Sec 606.

Para (a), line 4: Add the following sentence: The Secretary of Defense shall determine those conditions necessary to impose on any system operator to meet national security concerns of the United States.

Para (b)(1), line 10: Add the following sentence: The Secretary of State shall determine those conditions necessary to impose on any system operator to meet international obligations of the United States.

Para (c)(1), line 15: Delete entire paragraph.

Rationale: To explicitly state that the Secretary of Defense and Secretary of State are responsible for establishing conditions concerning national security and international obligations, respectively.

Pages 31 and 32, Sec 606, para (c)(2)

Page 31, line 22: Between the words "Secretary" and "determine" insert "in consultation with the Secretary of Defense or the Secretary of State, as the case may be,"

Page 31, lines 23 and 24: Replace the phrase "...investments will be lost to..." with "that past development costs, including the cost of capital, will not be recovered by."

Page 32, lines 1 and 2: After the word "such" change the sentence to read "costs, excluding anticipated profits."

Rationale: To eliminate any ambiguity concerning the use of the word "investment" and to eliminate any suggestion that reimbursement could include an amount for anticipated profits since anticipated market revenues are too speculative for reasonable determination.



Washington, D.C. 20520

Dear Mr. Chairman:

This letter is in response to your request for Department of State comments on HR 4836 "To establish a system to promote the use of land remote-sensing satellite data, and for other purposes." The Bill would guide the United States Government in promoting full, prompt, and proper involvement of the private sector in civil land remote-sensing from space.

The Department of State recommends that this Bill be enacted only if the following modifications to Section 606 are made:

-- -- Section 606 (A) add the following sentence at the close: "The Secretary of Defense shall determine those conditions necessary to impose on any system operator to meet the national security concerns of the United States;"

-- -- Section 606 (B) (1) add the following sentence at the close: "The Secretary of State shall determine those conditions necessary to impose on any system operator to meet the international obligations and foreign policy concerns of the United States;"

-- -- Section 606 (C) (1) delete;

-- -- Section 606 (C) (2) change to read as follows:

"Should the Secretary determine during the lifetime of any agreement made between the Government and private operator(s) arising from this act that a modification of the agreement is required to meet conditions newly imposed by national security and/or foreign policy the Secretary shall obtain the

The Honorable
James Scheuer, Chairman,
Subcommittee on Natural Resources,
Agricultural Research and Environment,
House of Representatives.

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concurrence of the Secretaries of Defense and/or State in determining whether, and to what extent, a reimbursement to a private operator for losses incurred is warranted."

We believe the above changes are required for the following reasons. The addition of language to Sections 606 (A) and (B) (1) setting forth the roles of the Secretaries of Defense and State respectively will clarify their authority and positions within the decision-making process. Section 606 (C) (1) should be deleted because, if enacted, it would withdraw from the Secretaries of State and Defense their fundamental authority to make basic policy regarding national security and international relations. Sections 606 (A) and (B) (1) and (2), with the additions suggested above, clearly and fully set forth the authorities of the Secretaries of Defense and State in the promotion of land remote sensing satellite and data use, as well as their proper and appropriate relationship in this matter to the Secretary of Commerce. Should it be determined that Section 606 (C) (1) must be retained, we would accept a change of text to read as follows: "The Secretary, in consultation with the Secretary of Defense and the Secretary of State, is authorized to determine reasonable and appropriate action on any system operator as described in Section 401 when national security concerns or international obligations are not met".

Section 606 (C) (2) must be revised because, if enacted as is, it would require that if the Secretary of Commerce so determined, the Departments of Defense and State would be compelled to reimburse a private operator for any burdens imposed by the Government in fulfillment of its constitutionally-mandated responsibilities to ensure the national security and to make foreign policy. Section 606 (C) (2), as written, also suggests that in an indirect fashion, a private entity operating the nation's land remote-sensing system could have a kind of veto over both the national security and foreign policy of this country. It also seems to grant the Secretary of Commerce authorities and responsibilities historically exercised by the Departments of State and Defense.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report.

Sincerely,

W. Tapley Bennett, Jr.
Assistant Secretary
Legislative and Intergovernmental Affairs

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- Drafted: OES/SAT: LARose

Cleared:

OES: BYeages

L/OES: JYanagida

OES/SAT: OESkin

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Approved : OES - Charles Horner, Acting

Ch.

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