

106TH CONGRESS  
1ST SESSION

# S. 469

To encourage the timely development of a more cost effective United States commercial space transportation industry, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 25, 1999

Mr. BREAU (for himself, Mr. BURNS, and Mr. BAUCUS) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To encourage the timely development of a more cost effective United States commercial space transportation industry, and for other purposes.

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

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

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Commercial Space Transportation Cost Reduction Act”.

6 (b) TABLE OF CONTENTS.—The table of contents of  
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Purposes.
- Sec. 4. Definitions.

TITLE I—INCREASING THE AVAILABILITY OF PRIVATE SECTOR  
FINANCING FOR THE UNITED STATES COMMERCIAL SPACE  
TRANSPORTATION INDUSTRY THROUGH A LOAN GUARANTEE  
PROGRAM

Sec. 101. United States Commercial Space Transportation Vehicle Industry Program.

Sec. 102. Functions of the Secretary of the Department of Transportation.

Sec. 103. Space Transportation Loan Guarantee Fund.

Sec. 104. Authorization of Secretary to Guarantee Obligations

Sec. 105. Eligibility for Guarantee

Sec. 106. Defaults

1 **SEC. 2. FINDINGS.**

2 Congress makes the following findings:

3 (1) The United States commercial space trans-  
4 portation vehicle industry is an essential part of the  
5 national economy and opportunities for U.S. com-  
6 mercial providers are growing as international mar-  
7 kets expand.

8 (2) The development of the U.S. commercial  
9 space transportation vehicle industry is consistent  
10 with the national security interests and foreign pol-  
11 icy interests of the United States.

12 (3) United States trading partners have been  
13 able to lower their commercial space transportation  
14 prices aggressively either through direct cash pay-  
15 ments for commercially targeted product develop-  
16 ment or with indirect benefits derived from nonmar-  
17 ket economy status.

18 (4) Because United States incentives for space  
19 transportation vehicle development have historically  
20 focused on civil and military rather than commercial

1 use, U.S. launch costs have remained comparatively  
2 high, and U.S. launch technology has not been com-  
3 mercially focused.

4 (5) As a result, the U.S. share of the world  
5 commercial market has decreased from nearly 100%  
6 twenty years ago to approximately 47% in 1998.

7 (6) In order to avoid undue reliance on foreign  
8 space transportation services, the U.S. must strive  
9 to have sufficient domestic capacity as well as the  
10 highest quality and the lowest cost per service pro-  
11 vided.

12 (7) A successful high quality, lower cost U.S.  
13 commercial space transportation industry should  
14 also lead to substantial U.S. taxpayer savings  
15 through collateral lower U.S. government costs for  
16 its space access requirements.

17 (8) The key to maintaining United States lead-  
18 ership in the world market is not another massive  
19 government program, but rather provision of just  
20 enough government support on an incremental and  
21 timely basis to enable the more cost effective U.S.  
22 private sector to build lower-cost space transpor-  
23 tation vehicles.

24 (9) Private sector companies across the United  
25 States are already attempting to develop a variety of

1 lower-cost space transportation vehicles, but lack of  
2 sufficient private financing, particularly in the early  
3 stages of development, has proven to be a major ob-  
4 stacle, an obstacle our trading partners have re-  
5 moved by providing direct access to government  
6 funding.

7 (10) Given the strengths and creativity of pri-  
8 vate industry in the United States, a more effective  
9 alternative to the approach of our trading partners  
10 is for the U.S. government to provide limited incen-  
11 tives, including loan guarantees which would help  
12 qualifying U.S. private-sector companies secure oth-  
13 erwise unavailable private “bridge” financing for the  
14 critical developmental stages of the project, while at  
15 the same time keeping government involvement at a  
16 minimum.

17 **SEC. 3. PURPOSES.**

18 Therefore the purposes of this Act are—

19 (1) to ensure availability of otherwise unavail-  
20 able private sector “bridge” financing for U.S. pri-  
21 vate sector development of commercial space trans-  
22 portation vehicles with launch costs significantly  
23 below current levels;

24 (2) and, as a result—

1 (A) to avoid undue reliance on foreign  
2 space transportation services;

3 (B) to reduce substantially United States  
4 Government space transportation expenditures;

5 (C) to increase the international competi-  
6 tiveness of the United States space industry;

7 (D) to encourage the growth of space-relat-  
8 ed commerce in the United States and inter-  
9 nationally; and

10 (E) to increase the number of high-value  
11 jobs in United States space-related industries. .

12 **SEC. 4. DEFINITIONS.**

13 In this Act:

14 (1) **TOTAL CAPITAL REQUIREMENT.**—The term  
15 “total capital requirement” of a United States com-  
16 mercial space transportation provider means the ag-  
17 gregate, as determined by the Secretary, of all Cash  
18 Requirements paid or to be paid by or on the ac-  
19 count of the Obligor prior to the achievement by the  
20 Obligor of positive cash flow generation. For the  
21 purposes of this definition, the term “Cash Require-  
22 ments” shall include all cash expended or invested  
23 by the Obligor (including but not limited to design,  
24 development, testing and evaluation (DDT&E)), con-  
25 struction, reconstruction, reconditioning, placing into

1 operation, working capital, interest expense and ini-  
2 tial operating and marketing expenses in connection  
3 with space transportation prior to the achievement  
4 of positive cash flow generation from ongoing oper-  
5 ations.

6 (2) LOAN.—The term “loan” means an obliga-  
7 tion.

8 (3) OBLIGEE.—The term “obligee” means the  
9 holder of an obligation.

10 (4) OBLIGOR.—The term “obligor” means any  
11 party primarily liable for payment of the principal of  
12 or interest on any obligation.

13 (5) OBLIGATION.—The term “obligation”  
14 means any note, bond, debenture, or other evidence  
15 of indebtedness issued for one of the purposes speci-  
16 fied in section 105(a) of this Act.

17 (6) SECRETARY.—The term “Secretary” means  
18 the Secretary of the United States Department of  
19 Transportation.

20 (7) SPACE LAUNCH SITE.—The term “space  
21 launch site” means a location from which a launch  
22 or landing takes place and includes all facilities lo-  
23 cated on, or components of, a launch or landing site  
24 which are necessary to conduct a launch, whether on

1 land, sea, in the earth’s atmosphere, or beyond the  
2 earth’s atmosphere.

3 (8) SPACE TRANSPORTATION VEHICLE.—The  
4 term “space transportation vehicle” includes all  
5 types of vehicles, whether in existence or under de-  
6 sign, development, construction, reconstruction or  
7 reconditioning; constructed in the United States by  
8 United States commercial space transportation vehi-  
9 cle providers as defined below and owned by those  
10 commercial providers, for the purpose of operating  
11 in, or transporting a payload to, from, or within,  
12 outer space, or in suborbital trajectory, and includes  
13 any component of such vehicle not specifically de-  
14 signed or adapted for a payload.

15 (9) STATE.—The term “State” means each of  
16 the several States of the Union, the District of Co-  
17 lumbia, the Commonwealth of Puerto Rico, the Vir-  
18 gin Islands, Guam, American Samoa, the Common-  
19 wealth of the Northern Mariana Islands, and any  
20 other commonwealth, territory, or possession of the  
21 United States.

22 (10) UNITED STATES COMMERCIAL PRO-  
23 VIDER.—The term “United States commercial pro-  
24 vider” means a commercial provider, organized

1       under the laws of the United States or of a State,  
2       which is—

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

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

7               (i) such subsidiary has in the past evi-  
8       denced a substantial commitment to the  
9       United States market through—

10              (I) investments in the United  
11       States in long-term research, develop-  
12       ment, and manufacturing (including  
13       the manufacture of major components  
14       and subassemblies); and

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

17              (ii) the country or countries in which  
18       such foreign company is incorporated or  
19       organized, and, if appropriate, in which it  
20       principally conducts its business, affords  
21       reciprocal treatment to companies de-  
22       scribed in subparagraph (A) comparable to  
23       that afforded to such foreign company's  
24       subsidiary in the United States, as evi-  
25       denced by—



1 (I) providing comparable oppor-  
 2 tunities for companies described in  
 3 subparagraph (A) to participate in  
 4 Government sponsored research and  
 5 development similar to that authorized  
 6 under this Act;

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

13 (III) providing adequate and ef-  
 14 fective protection for the intellectual  
 15 property rights of companies de-  
 16 scribed in subparagraph (A).

17 (11) SMALL BUSINESS.—For the purposes of  
 18 this Act, a “small business” is a commercial pro-  
 19 vider as defined by the Secretary according to cri-  
 20 teria established in consultation with the commercial  
 21 space transportation vehicle industry and profes-  
 22 sional associations.

23 (12) UNITED STATES COMMERCIAL SPACE  
 24 TRANSPORTATION VEHICLE PROVIDER.—The term  
 25 “United States commercial space transportation ve-

1        hicle provider” means a United States commercial  
2        provider engaged in designing, developing, produc-  
3        ing, or operating commercial space transportation  
4        vehicles.

5            (13) UNITED STATES COMMERCIAL SPACE  
6        TRANSPORTATION VEHICLE INDUSTRY.—The term  
7        “United States commercial space transportation ve-  
8        hicle industry” means the collection of United States  
9        commercial providers of space transportation vehi-  
10       cles.

11           (14) COST TO THE GOVERNMENT.—“Cost to  
12        the Government” means the Risk Rate multiplied by  
13        the amount of the guarantee issued by the Sec-  
14        retary. The Cost to the Government reduces the  
15        amount of the Fund until such time as part or all  
16        of the guarantee has been retired as described in  
17        Section 103 of the Act.

18           (15) RISK RATE.—“Risk Rate” means the per-  
19        centage applied to a guarantee of an entity assigned  
20        to a specific Risk Category by the Secretary and  
21        used in calculating the Cost to the Government of  
22        the guarantee.

23           (16) RISK CATEGORY.—“Risk Category” means  
24        the category into which the Secretary assigns an en-  
25        tity applying for a guarantee based on the risk fac-

1       tors identified in Section 104(f). The Risk Category  
 2       is assigned for the purpose of arriving at a Risk  
 3       Rate in the calculation of the Cost to the Govern-  
 4       ment.

5           (17) FUND.—The “Fund” means the amount  
 6       appropriated under the Act as described under Sec-  
 7       tion 103 of the Act.

8   TITLE I—INCREASING THE AVAILABILITY OF  
 9       PRIVATE SECTOR FINANCING FOR THE  
 10      UNITED STATES COMMERCIAL SPACE  
 11      TRANSPORTATION VEHICLE INDUSTRY  
 12      THROUGH A LOAN GUARANTEE PROGRAM

13   **SEC. 101. UNITED STATES COMMERCIAL SPACE TRANSPOR-**  
 14                   **TATION VEHICLE INDUSTRY LOAN GUARAN-**  
 15                   **TEE PROGRAM.**

16       (a) ESTABLISHMENT OF PROGRAM.—There shall be  
 17   a United States Commercial Space Transportation Vehicle  
 18   Industry Loan Guarantee program to provide loan guar-  
 19   antees to support the private development of multiple  
 20   qualified United States commercial space transportation  
 21   vehicle providers with launch costs significantly below cur-  
 22   rent levels.

23       (b) ADMINISTRATION OF PROGRAM.—The program  
 24   shall be carried out by the Secretary of Transportation  
 25   under a streamlined application process pursuant to the

1 terms of this Section and any regulations that may be pro-  
2 mulgated hereunder, in consultation with other U.S. Gov-  
3 ernment officials, and private sector representatives, as  
4 necessary, to ensure fair, effective and timely program ad-  
5 ministration.

6 (c) SCOPE OF PROGRAM.—

7 (1) TEMPORARY GOVERNMENT SUPPORT.—The  
8 United States Commercial Space Transportation Ve-  
9 hicle Industry Loan Guarantee program is intended  
10 to provide loan guarantees to support financing of  
11 qualified commercial space transportation vehicle de-  
12 velopment ventures during their startup phases and  
13 is not intended as a permanent source of financing  
14 for such ventures. Applications for guarantees under  
15 this program must include specific plans for the  
16 timely transition from guaranteed financing to  
17 standalone private sector financing as soon as the  
18 venture becomes commercially viable.

19 (2) EXCLUSION OF SPACE LAUNCH SITES.—The  
20 program does not provide for loan guarantees per-  
21 taining to the construction, reconstruction, or recon-  
22 ditioning of space launch sites.

23 (3) EXCLUSION OF EVOLVED EXPENDABLE  
24 LAUNCH VEHICLE PROGRAM.—The United States  
25 Commercial Space Transportation Vehicle Industry

1       Loan Guarantee program shall not remove, restrict,  
2       or replace funding provided by the Department of  
3       Defense to commercial providers participating in the  
4       Evolved Expendable Launch Vehicle (EELV) pro-  
5       gram. Commercial providers already receiving De-  
6       partment of Defense funding for the development of  
7       specific expendable launch vehicles under the  
8       Evolved Expendable Launch Vehicle program shall  
9       not be eligible to apply for loan guarantees pertain-  
10      ing to this same program, under the United States  
11      Commercial Space Transportation Vehicle Industry  
12      Loan Guarantee program.

13           (4) SMALL BUSINESS SET ASIDE.—Depending  
14      upon the number of applications, not less than ten  
15      percent and up to 20 percent of the loan guarantee  
16      fund shall be set aside for small businesses as de-  
17      fined by the Secretary. In no event shall a single  
18      commercial provider be the sole beneficiary of loan  
19      guarantees available under this Act.

20           (5) COMPETITION ENCOURAGED ON INITIA-  
21      TIVES ATTEMPTING TO MEET UNIQUE U.S. GOVERN-  
22      MENT SPECIFICATIONS.—When possible and eco-  
23      nomically feasible, in order to allow U.S. taxpayers  
24      to receive the benefits and disciplines of private sec-  
25      tor competition, the Secretary shall administer the

1 loan guarantee program to permit the participation  
2 of multiple United States space transportation vehi-  
3 cle commercial providers that are targeting unique  
4 U.S. government specifications.

5 (6) NONDISCLOSURE OF CONFIDENTIAL MATE-  
6 RIALS.—Materials that are submitted by a United  
7 States commercial space transportation vehicle pro-  
8 vider to the Secretary in connection with an applica-  
9 tion submitted under the United States Commercial  
10 Space Transportation Vehicle Industry Loan Guar-  
11 antee program and deemed by the commercial pro-  
12 vider to be confidential, and that contain trade se-  
13 crets or proprietary commercial, financial, or tech-  
14 nical information of a kind not customarily disclosed  
15 to the public, shall not be disclosed by the Secretary  
16 to persons other than Government officers, employ-  
17 ees or contractors notwithstanding any other provi-  
18 sion of law.

19 (d) SUNSET.—This Act shall sunset 10 years  
20 from date of enactment.

21 **SEC. 102. FUNCTIONS OF THE SECRETARY OF TRANSPOR-**  
22 **TATION.**

23 The Secretary shall carry out the following functions:

24 (1) CONSULTATION.—Consultation, to the ex-  
25 tent deemed necessary for effective implementation

1 of the Act with appropriate federal agencies, Con-  
2 gressional, and space transportation industry rep-  
3 resentatives, and members of the risk management  
4 industry concerning—

5 (A) assessments of international competi-  
6 tion, potential markets for space transportation  
7 vehicles, and availability of private investment  
8 capital;

9 (B) recommendations of commercial enti-  
10 ties, partnerships, joint ventures, or consortia  
11 regarding effective implementation of the loan  
12 guarantee program; and,

13 (C) recommendations on how to make U.S.  
14 government space access requirements more  
15 compatible with U.S. commercial space trans-  
16 portation assets.

17 (2) PROGRAM MANAGEMENT.—Management of  
18 the loan guarantee program consistent with the pur-  
19 poses of this Act.

20 **SEC. 103. AUTHORIZATION OF APPROPRIATION OF FUNDS.**

21 (a) The Act authorizes the appropriation of the sum  
22 of \$500,000,000 and such other annual sums as may be  
23 necessary to be deposited in a Fund to be used by the  
24 Secretary for the purpose of carrying out the provisions  
25 of the Act. The Fund will be reduced by the Cost to the

1 Government (as defined) of each loan guarantee extended  
 2 by the Secretary as further described in Section 104(f).  
 3 As an Obligor releases its government guarantees on the  
 4 schedule agreed to up front with the Secretary, this Cost  
 5 to the Government shall be reduced or eliminated, thus  
 6 replenishing the Fund for new guarantees.

7 **SEC. 104. AUTHORIZATION OF SECRETARY TO GUARANTEE**  
 8 **OBLIGATIONS.**

9 (a) **PRINCIPAL AND INTEREST.**—The Secretary is au-  
 10 thorized to guarantee, and to enter into commitments to  
 11 guarantee, the payment of the interest on, and the unpaid  
 12 balance of the principal of, any obligation which is eligible  
 13 to be guaranteed under this Act. A guarantee, or commit-  
 14 ment to guarantee, made by the Secretary under this Act  
 15 shall cover 100 percent of the amount of the principal and  
 16 interest of the obligation.

17 (b) **SECURITY INTEREST.**—No obligation shall be  
 18 guaranteed under this Act unless the obligor conveys or  
 19 agrees to convey to the Secretary a security interest such  
 20 as the Secretary may reasonably require to protect the in-  
 21 terests of the United States.

22 (c) **PRIVATE INSURANCE.**—If the Secretary deter-  
 23 mines that other potential measures, as described in this  
 24 Act, are not sufficient to provide adequate security, the  
 25 Secretary, as a condition of processing or approving an



1 application for guarantee of an obligation, may require  
2 that the obligor obtain private insurance with respect to  
3 a portion of the government's risk of default by the obligor  
4 on the obligation, including both the amount of the obliga-  
5 tion still outstanding and the accrued interest. Such pri-  
6 vate insurance may be funded from the proceeds of any  
7 obligation guaranteed under this Act. If the obligor fails  
8 to renew such private insurance on a timely basis, the Sec-  
9 retary may take such action as deemed necessary, with  
10 regard to seizure of security interest conveyed by the obli-  
11 gor or the assessment of additional fees to the obligor,  
12 to ensure that the appropriate insurance renewal is ob-  
13 tained without delay.

14 (d) PLEDGE OF UNITED STATES.—The full faith and  
15 credit of the United States is pledged to the payment of  
16 all guarantees made under this Act with respect to both  
17 principal and interest, including interest, as may be pro-  
18 vided for in the guarantee, accruing between the date of  
19 default under a guaranteed obligation and the payment  
20 in full of the guarantee.

21 (e) PROOF OF OBLIGATIONS.—Any guarantee, or  
22 commitment to guarantee, made by the Secretary under  
23 this Act shall be conclusive evidence of the eligibility of  
24 the obligations for such guarantee, and the validity of any  
25 guarantee, or commitment to guarantee, so made shall be

1 incontestable. Notwithstanding an assumption of an obli-  
 2 gation by the Secretary under section 106(a) or (b) of this  
 3 Act, the validity of the guarantee of an obligation made  
 4 by the Secretary under this Act is unaffected and the  
 5 guarantee remains in full force and effect.

6 (f) DETERMINATION OF ESTIMATED BENEFIT AND  
 7 COST TO GOVERNMENT FOR LOAN GUARANTEE PRO-  
 8 GRAM.—

9 (1) The Secretary shall in consultation with the  
 10 private risk management industry and consistent  
 11 with the Federal Credit Reform Act of 1990 (2  
 12 U.S.C. 661a et seq.).—

13 (A) establish in accordance with this sub-  
 14 section a system of risk categories for obliga-  
 15 tions guaranteed under this Act, that cat-  
 16 egorizes the relative risk of guarantees made  
 17 under this Act with respect to the risk factors  
 18 set forth in paragraph (3); and

19 (B) determine for each of the risk cat-  
 20 egories a risk rate equivalent to the cost of obli-  
 21 gations in the category, expressed as a percent-  
 22 age of the amount guaranteed under this Act  
 23 for obligations in the category.

24 (2) Before making a guarantee under this sec-  
 25 tion for an obligation, the Secretary shall apply the

1 risk factors set forth in paragraph (3) to place the  
2 obligation in a risk category established under para-  
3 graph (1)(A).

4 (3) The risk factors referred to in paragraphs  
5 (1) and (2) are the following:

6 (A) The technological feasibility of the pro-  
7 posed venture and the magnitude of its pro-  
8 jected overall space launch cost reduction;

9 (B) The period for which an obligation is  
10 to be guaranteed, such period not exceeding 12  
11 years;

12 (C) The amount of obligations which are  
13 guaranteed or to be guaranteed, in relation to  
14 the Total Capital Requirement of the proposed  
15 venture;.

16 (D) The financial condition of the appli-  
17 cant;

18 (E) The availability of private financing,  
19 including guarantees (other than the guarantees  
20 issued pursuant to this Act) and private insur-  
21 ance, for the proposed venture;

22 (F) The projected commercial and govern-  
23 ment utilization of each space transportation  
24 vehicle or other article to be financed by debt  
25 guaranteed pursuant to this Act (including any

1 contracts, letters of intent, or other expressions  
2 of agreement under which the applicant will  
3 provide launch services using a space transpor-  
4 tation vehicle or other article financed by debt  
5 guaranteed pursuant to this Act);

6 (G) The adequacy of collateral provided in  
7 exchange for a guarantee issued pursuant to  
8 this Act;

9 (H) The management and operating expe-  
10 rience of the applicant;

11 (I) Commercial viability of the business  
12 plan for the venture of the Obligor.

13 (J) The extent of private equity capital in  
14 the project;

15 (K) The applicant's plans for achieving a  
16 transition from Government-guaranteed financ-  
17 ing to private financing;

18 (L) The likelihood that the venture would  
19 serve an identifiable national interest;

20 (M) The likelihood that the successful com-  
21 pletion of the project would result in savings  
22 that would offset anticipated Government ex-  
23 penditures for space-related activities;

1           (N) The likelihood that the project will  
2           open new markets or result in the development  
3           of significant new technologies;

4           (O) other relevant criteria; and

5           (4) The amount of appropriated funds required  
6           by the Federal Credit Reform Act of 1990 in ad-  
7           vance of the Secretary's issuance of a guarantee of  
8           an obligation, or a commitment to guarantee an obli-  
9           gation, may be provided, in whole or in part, by a  
10          non-Federal source and deposited by the Secretary  
11          in the financing account established under the Fed-  
12          eral Credit Reform Act of 1990 for obligation guar-  
13          antees issued by the Secretary. These non-Federal  
14          source funds may be in lieu of or combined with  
15          Federal funds appropriated for the purpose of satis-  
16          fying the requirements of the Federal Credit Reform  
17          Act of 1990. The non-Federal source funds depos-  
18          ited into that financing account shall be held and  
19          applied by the Secretary in accordance with the pro-  
20          visions of the Federal Credit Reform Act of 1990,  
21          in the same manner as that legislation controls the  
22          use and disposition of Federally appropriated funds.  
23          Non-Federal source funds must be paid to the Sec-  
24          retary in cash prior to the issuance of any guarantee  
25          or commitment to guarantee an obligation. The pay-

1       ment of said non-Federal source funds shall not, in  
2       any way, relieve any entity from its responsibility to  
3       meet any other provision of this Act or its imple-  
4       menting regulations relating to the application for,  
5       issuance of, or administration of a guarantee of an  
6       obligation.

7               (5) In this subsection, the term “cost” has the  
8       meaning given that term in the Federal Credit Re-  
9       form Act of 1990 (2 U.S.C. 661a).

10   **SEC. 105. ELIGIBILITY FOR GUARANTEE.**

11       (a) PURPOSE OF OBLIGATIONS.—Pursuant to the au-  
12       thority granted under section 104(a) of this Act, the Sec-  
13       retary, upon such terms as he shall prescribe, consistent  
14       with the provisions and purpose of the Act, may guarantee  
15       or make a commitment to guarantee, payment of the prin-  
16       cipal of and interest on an obligation for the purpose of—

17               (1) financing the Total Capital Requirement, as  
18       defined, of the DDT& E, construction, reconstruc-  
19       tion, reconditioning, placing into operation, working  
20       capital, interest expense, and initial operating and  
21       marketing expenses in connection with space trans-  
22       portation vehicles with launch costs significantly  
23       below current levels.

24               (2) financing the purchase, reconstruction, or  
25       reconditioning of space transportation vehicles to

1        achieve launch costs significantly below current lev-  
2        els for which obligations were guaranteed under this  
3        Act that, under the provisions of section 106 of this  
4        Act are space transportation vehicles for which obli-  
5        gations were accelerated and paid and that have  
6        been repossessed by the Secretary or sold at fore-  
7        closure instituted by the Secretary.

8        (b) CONTENTS OF OBLIGATIONS.—Obligations guar-  
9        anteed under this Act—

10            (1) shall have an obligor approved by the Sec-  
11        retary as responsible and possessing or having the  
12        ability to obtain the technical capability, experience,  
13        financial resources, and other qualifications nec-  
14        essary to the adequate development, operation and  
15        maintenance of the space transportation vehicle or  
16        space transportation vehicles which serve as security  
17        for the guarantee of the Secretary;

18            (2) subject to the provisions of subsection (c)(1)  
19        of this section, shall be in an aggregate principal  
20        amount which does not exceed 80 per centum of the  
21        Total Capital Requirement, as determined by the  
22        Secretary, of the space transportation vehicle which  
23        is used as security for the guarantee of the Sec-  
24        retary;

1           (3) shall have maturity dates satisfactory to the  
2       Secretary but, subject to the provisions of paragraph  
3       (2) of subsection (c) of this section, not to exceed  
4       twelve years from the date of the issuance of the  
5       guarantee.

6           (4) shall provide for payments by the obligor  
7       satisfactory to the Secretary;

8           (5) shall provide, or a related agreement shall  
9       provide that the space transportation vehicle shall  
10      meet such safety, reliability, and performance stand-  
11      ards as are necessary for U. S. commercial licensing;  
12      and

13          (6) shall provide that the space transportation  
14      vehicle provider guarantee to the United States Gov-  
15      ernment, launch services at the targeted significantly  
16      reduced launch cost or the prevailing commercial  
17      launch cost, which ever is lower.

18      (c) SECURITY.—

19          (1) The security for the guarantee of an obliga-  
20      tion by the Secretary under this Act may relate to  
21      more than one space transportation vehicle and may  
22      consist of any combination of types of security. The  
23      aggregate principal amount of obligations which  
24      have more than one space transportation vehicle as  
25      security for the guarantee of the Secretary under



1       this Act may equal, but not exceed, the sum of the  
2       principal amount of obligations permissible with re-  
3       spect to each space transportation vehicle.

4               (2) If the security for the guarantee of an obli-  
5       gation by the Secretary under this Act relates to  
6       more than one space transportation vehicle, such ob-  
7       ligation may have the latest maturity date permis-  
8       sible under subsection (b) of this section with re-  
9       spect to any of such space transportation vehicles:  
10      Provided, that the Secretary may require such pay-  
11      ments of principal, prior to maturity, with respect to  
12      all related obligations as he deems necessary in  
13      order to maintain adequate security for the guaran-  
14      tee.

15      (d) RESTRICTIONS.—

16              (1) RESTRICTION ON USED SPACE TRANSPOR-  
17      TATION VEHICLES.—No commitment to guarantee,  
18      or guarantee of an obligation may be made by the  
19      Secretary under this Act for the purchase of a used  
20      space transportation vehicle unless—

21                  (A) the used space transportation vehicle  
22                  will be reconstructed or reconditioned in the  
23                  United States and will contribute to the devel-  
24                  opment of the United States commercial space  
25                  transportation vehicle industry; and

1 (B) the reconstruction or reconditioning of  
2 the used space transportation vehicle will result  
3 in a magnitude of projected space transpor-  
4 tation cost reduction comparable to that which  
5 development of new space transportation vehi-  
6 cles would be required to project, in order to be  
7 eligible for guarantee of obligations.

8 (e) APPLICATION AND ADMINISTRATIVE FEES.—

9 (1) The Secretary may assess a fee for applica-  
10 tions for loan guarantees submitted under this Act  
11 and/ or a fee for administration of an obligation  
12 under this Act.

13 (2) Application fees under this subsection shall  
14 be assessed and collected at the time a U.S. com-  
15 mercial space transportation vehicle provider sub-  
16 mits an application for loan guarantees an applica-  
17 tion for loan guarantees under this Act. Administra-  
18 tive fees under this section shall be assessed and col-  
19 lected not later than the date of issuance of the debt  
20 guaranteed pursuant to this Act

21 (3) Administrative fees collected under this sub-  
22 section shall not exceed one-eighth of one percent of  
23 the guaranteed amount of the face value of the debt  
24 covered by the guarantee.

1           (4) A fee paid under this subsection is generally  
2       not refundable. However, an obligor shall receive  
3       credit for the amount paid for the remaining term  
4       of the guaranteed obligation if the obligation is re-  
5       financed and guaranteed under this Act after such re-  
6       financing.

7           (5) A fee paid under this subsection shall be in-  
8       cluded in the amount of the actual cost of the obli-  
9       gation guaranteed under this Act and is eligible to  
10      be financed under this Act.

11          (6) There are authorized to be appropriated  
12      such sums as may be necessary for salaries and ex-  
13      penses to carry out the responsibilities under this  
14      title.

15      (f) **ADDITIONAL REQUIREMENTS.**—Obligations guar-  
16      anteed under this Act and agreements relating thereto  
17      shall contain such other provisions with respect to the pro-  
18      tection of the financial security interests of the United  
19      States as the Secretary may, in his or her discretion, pre-  
20      scribe.

21      **SEC. 106. DEFAULTS.**

22          (a) **RIGHTS OF OBLIGEE.**—In the event of a default,  
23      which has continued for thirty days, in any payment by  
24      the obligor of principal or interest due under an obligation  
25      guaranteed under this Act, the obligee or his agent shall

1 have the right to demand (unless the Secretary shall, upon  
2 such terms as may be provided in the obligation or related  
3 agreements, prior to that demand, have assumed the obli-  
4 gor's rights and duties under the obligation and agree-  
5 ments and shall have made any payments in default), at  
6 or before the expiration of such period as may be specified  
7 in the guarantee or related agreements, but not later than  
8 ninety days from the date of such default, payment by the  
9 Secretary of the unpaid principal amount of said obliga-  
10 tion and of the unpaid interest thereon to the date of pay-  
11 ment. Within such period as may be specified in the guar-  
12 antee or related agreements, but not later than thirty days  
13 from the date of such demand, the Secretary shall prompt-  
14 ly pay to the obligee or his agent the unpaid principal  
15 amount of said obligation and unpaid interest thereon to  
16 the date of payment: Provided, That the Secretary shall  
17 not be required to make such payment if prior to the expi-  
18 ration of said period he shall find that there was no de-  
19 fault by the obligor in the payment of principal or interest  
20 or that such default has been remedied prior to any such  
21 demand.

22 (b) NOTICE OF DEFAULT.—In the event of a default  
23 under a mortgage, loan agreement, or other security  
24 agreement between the obligor and the Secretary, the Sec-

1 retary may upon such terms as may be provided in the  
2 obligation or related agreement, either:

3 (1) assume the obligor's rights and duties  
4 under the agreement, make any payment in default,  
5 and notify the obligee or the obligee's agent of the  
6 default and the assumption by the Secretary; or

7 (2) notify the obligee or the obligee's agent of  
8 the default, and the obligee or the obligee's agent  
9 shall have the right to demand at or before the expi-  
10 ration of such period as may be specified in the  
11 guarantee or related agreements, but not later than  
12 60 days from the date of such notice, payment by  
13 the Secretary of the unpaid principal amount of said  
14 obligation and of the unpaid interest thereon. Within  
15 such period as may be specified in the guarantee or  
16 related agreements, but not later than 30 days from  
17 the date of such demand, the Secretary shall  
18 promptly pay to the obligee or the obligee's agent  
19 the unpaid principal amount of said obligation and  
20 unpaid interest thereon to the date of payment.

21 (c) TO COMPLETE, SELL OR OPERATE PROPERTY.—

22 In the event of any payment or assumption by the Sec-  
23 retary under subsection (a) or (b) of this section, the Sec-  
24 retary shall have all rights in any security held by him  
25 relating to his guarantee of such obligations as are con-

1 ferred upon him under any security agreement with the  
2 obligor. Notwithstanding any other provision of law relat-  
3 ing to the acquisition, handling, or disposal of property  
4 by the United States, the Secretary shall have the right,  
5 in his discretion, to complete, recondition, reconstruct,  
6 renovate, repair, maintain, operate, charter, or sell any  
7 property acquired by him pursuant to a security agree-  
8 ment with the obligor. The terms of the sale shall be as  
9 approved by the Secretary.

10 (d) ACTIONS AGAINST OBLIGOR.—In the event of a  
11 default under any guaranteed obligation or any related  
12 agreement, the Secretary shall take such action against  
13 the obligor or any other parties liable thereunder that, in  
14 his discretion, may be required to protect the interests of  
15 the United States. Any suit may be brought in the name  
16 of the United States or in the name of the obligee and  
17 the obligee shall make available to the United States all  
18 records and evidence necessary to prosecute any such suit.  
19 The Secretary shall have the right, in his discretion, to  
20 accept a conveyance of Act to and possession of property  
21 from the obligor or other parties liable to the Secretary,  
22 and may purchase the property for an amount not greater  
23 than the unpaid principal amount of such obligation and  
24 interest thereon. In the event that the Secretary shall re-  
25 ceive through the sale of property an amount of cash in

1 excess of the unpaid principal amount of the obligation  
2 and unpaid interest on the obligation and the expenses of  
3 collection of those amounts, the Secretary shall pay the  
4 excess to the obligor.

