

111TH CONGRESS
1ST SESSION

H. R. 3237

To enact certain laws relating to national and commercial space programs as title 51, United States Code, “National and Commercial Space Programs”.

IN THE HOUSE OF REPRESENTATIVES

JULY 16, 2009

Mr. CONYERS (for himself and Mr. SMITH of Texas) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To enact certain laws relating to national and commercial space programs as title 51, United States Code, “National and Commercial Space Programs”.

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

3 **SECTION 1. TABLE OF CONTENTS.**

4 The table of contents for this Act is as follows:

- Sec. 1. Table of contents.
- Sec. 2. Purpose; conformity with original intent.
- Sec. 3. Enactment of title 51, United States Code.
- Sec. 4. Conforming amendments to other laws.
- Sec. 5. Transitional and savings provisions.
- Sec. 6. Repeals.

5 **SEC. 2. PURPOSE; CONFORMITY WITH ORIGINAL INTENT.**

6 (a) PURPOSE.—The purpose of this Act is to codify certain existing laws
7 related to national and commercial space programs as a positive law title
8 of the United States Code.

9 (b) CONFORMITY WITH ORIGINAL INTENT.—In the codification of laws
10 by this Act, the intent is to conform to the understood policy, intent, and
11 purpose of Congress in the original enactments, with such amendments and

1 corrections as will remove ambiguities, contradictions, and other imperfec-
 2 tions, in accordance with section 205(c)(1) of House Resolution No. 988,
 3 93d Congress, as enacted into law by Public Law 93–554 (2 U.S.C.
 4 285b(1)).

5 **SEC. 3. ENACTMENT OF TITLE 51, UNITED STATES CODE.**

6 Title 51, United States Code, “National and Commercial Space Pro-
 7 grams”, is enacted as follows:

TITLE 51—NATIONAL AND COMMERCIAL SPACE PROGRAMS

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Subtitle I—General

2

CHAPTER 101—DEFINITIONS

Sec.

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3

§ 10101. Definitions

4

In this title:

5

(1) ADMINISTRATION.—The term “Administration” means the National Aeronautics and Space Administration.

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(2) ADMINISTRATOR.—The term “Administrator” means the Administrator of the National Aeronautics and Space Administration.

8

9

Subtitle II—General Program and Policy Provisions

10

11

CHAPTER 201—NATIONAL AERONAUTICS AND SPACE PROGRAM

12

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1 SUBCHAPTER I—SHORT TITLE, DECLARATION OF POLICY, AND
 2 DEFINITIONS

3 **§ 20101. Short title**

4 This chapter may be cited as the “National Aeronautics and Space Act”.

5 **§ 20102. Congressional declaration of policy and purpose**

6 (a) DEVOTION OF SPACE ACTIVITIES TO PEACEFUL PURPOSES FOR BEN-
 7 EFIT OF ALL HUMANKIND.—Congress declares that it is the policy of the
 8 United States that activities in space should be devoted to peaceful purposes
 9 for the benefit of all humankind.

10 (b) AERONAUTICAL AND SPACE ACTIVITIES FOR WELFARE AND SECU-
 11 RITY OF UNITED STATES.—Congress declares that the general welfare and
 12 security of the United States require that adequate provision be made for
 13 aeronautical and space activities. Congress further declares that such activi-
 14 ties shall be the responsibility of, and shall be directed by, a civilian agency
 15 exercising control over aeronautical and space activities sponsored by the
 16 United States, except that activities peculiar to or primarily associated with
 17 the development of weapons systems, military operations, or the defense of
 18 the United States (including the research and development necessary to
 19 make effective provision for the defense of the United States) shall be the
 20 responsibility of, and shall be directed by, the Department of Defense; and
 21 that determination as to which agency has responsibility for and direction
 22 of any such activity shall be made by the President.

23 (c) COMMERCIAL USE OF SPACE.—Congress declares that the general
 24 welfare of the United States requires that the Administration seek and en-
 25 courage, to the maximum extent possible, the fullest commercial use of
 26 space.

27 (d) OBJECTIVES OF AERONAUTICAL AND SPACE ACTIVITIES.—The aero-
 28 nautical and space activities of the United States shall be conducted so as
 29 to contribute materially to one or more of the following objectives:

30 (1) The expansion of human knowledge of the Earth and of phe-
 31 nomena in the atmosphere and space.

32 (2) The improvement of the usefulness, performance, speed, safety,
 33 and efficiency of aeronautical and space vehicles.

34 (3) The development and operation of vehicles capable of carrying in-
 35 struments, equipment, supplies, and living organisms through space.

1 (4) The establishment of long-range studies of the potential benefits
2 to be gained from, the opportunities for, and the problems involved in
3 the utilization of aeronautical and space activities for peaceful and sci-
4 entific purposes.

5 (5) The preservation of the role of the United States as a leader in
6 aeronautical and space science and technology and in the application
7 thereof to the conduct of peaceful activities within and outside the at-
8 mosphere.

9 (6) The making available to agencies directly concerned with national
10 defense of discoveries that have military value or significance, and the
11 furnishing by such agencies, to the civilian agency established to direct
12 and control nonmilitary aeronautical and space activities, of informa-
13 tion as to discoveries which have value or significance to that agency.

14 (7) Cooperation by the United States with other nations and groups
15 of nations in work done pursuant to this chapter and in the peaceful
16 application of the results thereof.

17 (8) The most effective utilization of the scientific and engineering re-
18 sources of the United States, with close cooperation among all inter-
19 ested agencies of the United States in order to avoid unnecessary dupli-
20 cation of effort, facilities, and equipment.

21 (9) The preservation of the United States preeminent position in aer-
22 onautics and space through research and technology development re-
23 lated to associated manufacturing processes.

24 (e) GROUND PROPULSION SYSTEMS RESEARCH AND DEVELOPMENT.—
25 Congress declares that the general welfare of the United States requires
26 that the unique competence in scientific and engineering systems of the Ad-
27 ministration also be directed toward ground propulsion systems research
28 and development. Such development shall be conducted so as to contribute
29 to the objectives of developing energy and petroleum-conserving ground pro-
30 pulsion systems, and of minimizing the environmental degradation caused
31 by such systems.

32 (f) BIOENGINEERING RESEARCH, DEVELOPMENT, AND DEMONSTRATION
33 PROGRAMS.—Congress declares that the general welfare of the United
34 States requires that the unique competence of the Administration in science
35 and engineering systems be directed to assisting in bioengineering research,
36 development, and demonstration programs designed to alleviate and mini-
37 mize the effects of disability.

38 (g) WARNING AND MITIGATION OF POTENTIAL HAZARDS OF NEAR-
39 EARTH OBJECTS.—Congress declares that the general welfare and security
40 of the United States require that the unique competence of the Administra-
41 tion be directed to detecting, tracking, cataloguing, and characterizing near-

1 Earth asteroids and comets in order to provide warning and mitigation of
2 the potential hazard of such near-Earth objects to the Earth.

3 (h) PURPOSE OF CHAPTER.—It is the purpose of this chapter to carry
4 out and effectuate the policies declared in subsections (a) to (g).

5 **§ 20103. Definitions**

6 In this chapter:

7 (1) AERONAUTICAL AND SPACE ACTIVITIES.—The term “aero-
8 nautical and space activities” means—

9 (A) research into, and the solution of, problems of flight within
10 and outside the Earth’s atmosphere;

11 (B) the development, construction, testing, and operation for re-
12 search purposes of aeronautical and space vehicles;

13 (C) the operation of a space transportation system including the
14 space shuttle, upper stages, space platforms, and related equip-
15 ment; and

16 (D) such other activities as may be required for the exploration
17 of space.

18 (2) AERONAUTICAL AND SPACE VEHICLES.—The term “aeronautical
19 and space vehicles” means aircraft, missiles, satellites, and other space
20 vehicles, manned and unmanned, together with related equipment, de-
21 vices, components, and parts.

22 SUBCHAPTER II—COORDINATION OF AERONAUTICAL AND
23 SPACE ACTIVITIES

24 **§ 20111. National Aeronautics and Space Administration**

25 (a) ESTABLISHMENT AND APPOINTMENT OF ADMINISTRATOR.—There is
26 established the National Aeronautics and Space Administration. The Admin-
27 istration shall be headed by an Administrator, who shall be appointed from
28 civilian life by the President by and with the advice and consent of the Sen-
29 ate. Under the supervision and direction of the President, the Administrator
30 shall be responsible for the exercise of all powers and the discharge of all
31 duties of the Administration and shall have authority and control over all
32 personnel and activities thereof.

33 (b) DEPUTY ADMINISTRATOR.—There shall be in the Administration a
34 Deputy Administrator, who shall be appointed from civilian life by the
35 President by and with the advice and consent of the Senate. The Deputy
36 Administrator shall perform such duties and exercise such powers as the
37 Administrator may prescribe. The Deputy Administrator shall act for, and
38 exercise the powers of, the Administrator during the Administrator’s ab-
39 sence or disability.

1 (c) RESTRICTION ON OTHER BUSINESS OR EMPLOYMENT.—The Admin-
 2 istrator and the Deputy Administrator shall not engage in any other busi-
 3 ness, vocation, or employment while serving as such.

4 **§ 20112. Functions of the Administration**

5 (a) PLANNING, DIRECTING, AND CONDUCTING AERONAUTICAL AND
 6 SPACE ACTIVITIES.—The Administration, in order to carry out the purpose
 7 of this chapter, shall—

8 (1) plan, direct, and conduct aeronautical and space activities;

9 (2) arrange for participation by the scientific community in planning
 10 scientific measurements and observations to be made through use of
 11 aeronautical and space vehicles, and conduct or arrange for the conduct
 12 of such measurements and observations;

13 (3) provide for the widest practicable and appropriate dissemination
 14 of information concerning its activities and the results thereof;

15 (4) seek and encourage, to the maximum extent possible, the fullest
 16 commercial use of space; and

17 (5) encourage and provide for Federal Government use of commer-
 18 cially provided space services and hardware, consistent with the re-
 19 quirements of the Federal Government.

20 (b) RESEARCH AND DEVELOPMENT IN CERTAIN TECHNOLOGIES.—

21 (1) GROUND PROPULSION TECHNOLOGIES.—The Administration
 22 shall, to the extent of appropriated funds, initiate, support, and carry
 23 out such research, development, demonstration, and other related ac-
 24 tivities in ground propulsion technologies as are provided for in sections
 25 4 to 10 of the Electric and Hybrid Vehicle Research, Development, and
 26 Demonstration Act of 1976 (15 U.S.C. 2503 to 2509).

27 (2) SOLAR HEATING AND COOLING TECHNOLOGIES.—The Adminis-
 28 tration shall initiate, support, and carry out such research, develop-
 29 ment, demonstrations, and other related activities in solar heating and
 30 cooling technologies (to the extent that funds are appropriated there-
 31 for) as are provided for in sections 5, 6, and 9 of the Solar Heating
 32 and Cooling Demonstration Act of 1974 (42 U.S.C. 5503, 5504, 5507).

33 **§ 20113. Powers of the Administration in performance of**
 34 **functions**

35 (a) RULES AND REGULATIONS.—In the performance of its functions, the
 36 Administration is authorized to make, promulgate, issue, rescind, and
 37 amend rules and regulations governing the manner of its operations and the
 38 exercise of the powers vested in it by law.

39 (b) OFFICERS AND EMPLOYEES.—In the performance of its functions, the
 40 Administration is authorized to appoint and fix the compensation of officers
 41 and employees as may be necessary to carry out such functions. The officers

1 and employees shall be appointed in accordance with the civil service laws
2 and their compensation fixed in accordance with chapter 51 and subchapter
3 III of chapter 53 of title 5, except that—

4 (1) to the extent the Administrator deems such action necessary to
5 the discharge of the Administrator's responsibilities, the Administrator
6 may appoint not more than 425 of the scientific, engineering, and ad-
7 ministrative personnel of the Administration without regard to such
8 laws, and may fix the compensation of such personnel not in excess of
9 the rate of basic pay payable for level III of the Executive Schedule;
10 and

11 (2) to the extent the Administrator deems such action necessary to
12 recruit specially qualified scientific and engineering talent, the Admin-
13 istrator may establish the entrance grade for scientific and engineering
14 personnel without previous service in the Federal Government at a level
15 up to 2 grades higher than the grade provided for such personnel under
16 the General Schedule, and fix their compensation accordingly.

17 (c) PROPERTY.—In the performance of its functions, the Administration
18 is authorized—

19 (1) to acquire (by purchase, lease, condemnation, or otherwise), con-
20 struct, improve, repair, operate, and maintain laboratories, research
21 and testing sites and facilities, aeronautical and space vehicles, quar-
22 ters and related accommodations for employees and dependents of em-
23 ployees of the Administration, and such other real and personal prop-
24 erty (including patents), or any interest therein, as the Administration
25 deems necessary within and outside the continental United States;

26 (2) to acquire by lease or otherwise, through the Administrator of
27 General Services, buildings or parts of buildings in the District of Co-
28 lumbia for the use of the Administration for a period not to exceed 10
29 years without regard to section 8141 of title 40;

30 (3) to lease to others such real and personal property;

31 (4) to sell and otherwise dispose of real and personal property (in-
32 cluding patents and rights thereunder) in accordance with the provi-
33 sions of chapters 1 to 11 of title 40 and in accordance with title III
34 of the Federal Property and Administrative Services Act of 1949 (41
35 U.S.C. 251 et seq.); and

36 (5) to provide by contract or otherwise for cafeterias and other nec-
37 essary facilities for the welfare of employees of the Administration at
38 its installations and purchase and maintain equipment therefor.

39 (d) GIFTS.—In the performance of its functions, the Administration is
40 authorized to accept unconditional gifts or donations of services, money, or
41 property, real, personal, or mixed, tangible or intangible.

1 (e) CONTRACTS, LEASES, AND AGREEMENTS.—In the performance of its
2 functions, the Administration is authorized, without regard to subsections
3 (a) and (b) of section 3324 of title 31, to enter into and perform such con-
4 tracts, leases, cooperative agreements, or other transactions as may be nec-
5 essary in the conduct of its work and on such terms as it may deem appro-
6 priate, with any agency or instrumentality of the United States, or with any
7 State, territory, or possession, or with any political subdivision thereof, or
8 with any person, firm, association, corporation, or educational institution.
9 To the maximum extent practicable and consistent with the accomplishment
10 of the purpose of this chapter, such contracts, leases, agreements, and other
11 transactions shall be allocated by the Administrator in a manner which will
12 enable small-business concerns to participate equitably and proportionately
13 in the conduct of the work of the Administration.

14 (f) COOPERATION WITH FEDERAL AGENCIES AND OTHERS.—In the per-
15 formance of its functions, the Administration is authorized to use, with their
16 consent, the services, equipment, personnel, and facilities of Federal and
17 other agencies with or without reimbursement, and on a similar basis to co-
18 operate with other public and private agencies and instrumentalities in the
19 use of services, equipment, and facilities. Each department and agency of
20 the Federal Government shall cooperate fully with the Administration in
21 making its services, equipment, personnel, and facilities available to the Ad-
22 ministration, and any such department or agency is authorized, notwith-
23 standing any other provision of law, to transfer to or to receive from the
24 Administration, without reimbursement, aeronautical and space vehicles,
25 and supplies and equipment other than administrative supplies or equip-
26 ment.

27 (g) ADVISORY COMMITTEES.—In the performance of its functions, the
28 Administration is authorized to appoint such advisory committees as may
29 be appropriate for purposes of consultation and advice to the Administra-
30 tion.

31 (h) OFFICES AND PROCEDURES.—In the performance of its functions, the
32 Administration is authorized to establish within the Administration such of-
33 fices and procedures as may be appropriate to provide for the greatest pos-
34 sible coordination of its activities under this chapter with related scientific
35 and other activities being carried on by other public and private agencies
36 and organizations.

37 (i) TEMPORARY OR INTERMITTENT SERVICES OF EXPERTS OR CONSULT-
38 ANTS.—In the performance of its functions, the Administration is author-
39 ized to obtain services as provided by section 3109 of title 5, but at rates
40 for individuals not to exceed the per diem rate equivalent to the maximum
41 rate payable under section 5376 of title 5.

1 (j) ALIENS.—In the performance of its functions, the Administration is
2 authorized, when determined by the Administrator to be necessary, and sub-
3 ject to such security investigations as the Administrator may determine to
4 be appropriate, to employ aliens without regard to statutory provisions pro-
5 hibiting payment of compensation to aliens.

6 (k) CONCESSIONS FOR VISITORS' FACILITIES.—

7 (1) IN GENERAL.—In the performance of its functions, the Adminis-
8 tration is authorized to provide by concession, without regard to section
9 1302 of title 40, on such terms as the Administrator may deem to be
10 appropriate and necessary to protect the concessioner against loss of
11 the concessioner's investment in property (but not anticipated profits)
12 resulting from the Administration's discretionary acts and decisions,
13 for the construction, maintenance, and operation of all manner of facili-
14 ties and equipment for visitors to the several installations of the Ad-
15 ministration and, in connection therewith, to provide services incident
16 to the dissemination of information concerning its activities to such
17 visitors, without charge or with a reasonable charge therefor (with this
18 authority being in addition to any other authority that the Administra-
19 tion may have to provide facilities, equipment, and services for visitors
20 to its installations).

21 (2) PUBLIC NOTICE AND DUE CONSIDERATION OF PROPOSALS.—A
22 concession agreement under this subsection may be negotiated with any
23 qualified proposer following due consideration of all proposals received
24 after reasonable public notice of the intention to contract.

25 (3) REASONABLE OPPORTUNITY FOR PROFIT.—The concessioner
26 shall be afforded a reasonable opportunity to make a profit commensu-
27 rate with the capital invested and the obligations assumed. The consid-
28 eration paid by the concessioner for the concession shall be based on
29 the probable value of the opportunity and not on maximizing revenue
30 to the United States.

31 (4) RECORDS AND ACCESS TO RECORDS.—Each concession agree-
32 ment shall specify the manner in which the concessioner's records are
33 to be maintained, and shall provide for access to the records by the
34 Administration and the Comptroller General of the United States for
35 a period of 5 years after the close of the business year to which the
36 records relate.

37 (5) POSSESSORY INTERESTS.—A concessioner may be accorded a
38 possessory interest, consisting of all incidents of ownership except legal
39 title (which shall vest in the United States), in any structure, fixture,
40 or improvement the concessioner constructs or locates upon land owned
41 by the United States. With the approval of the Administration, such

1 possessory interest may be assigned, transferred, encumbered, or relin-
2 quished by the concessioner, and, unless otherwise provided by con-
3 tract, shall not be extinguished by the expiration or other termination
4 of the concession and may not be taken for public use without just
5 compensation.

6 (l) **DETAILING MEMBERS OF ARMED SERVICES.**—In the performance of
7 its functions, the Administration is authorized, with the approval of the
8 President, to enter into cooperative agreements under which members of the
9 Army, Navy, Air Force, and Marine Corps may be detailed by the appro-
10 priate Secretary for services in the performance of functions under this
11 chapter to the same extent as that to which they might be lawfully assigned
12 in the Department of Defense.

13 (m) **CLAIMS AGAINST THE UNITED STATES.**—In the performance of its
14 functions, the Administration is authorized—

15 (1) to consider, ascertain, adjust, determine, settle, and pay, on be-
16 half of the United States, in full satisfaction thereof, any claim for
17 \$25,000 or less against the United States for bodily injury, death, or
18 damage to or loss of real or personal property resulting from the con-
19 duct of the Administration’s functions as specified in section 20112(a)
20 of this title, where such claim is presented to the Administration in
21 writing within 2 years after the accident or incident out of which the
22 claim arises; and

23 (2) if the Administration considers that a claim in excess of \$25,000
24 is meritorious and would otherwise be covered by this subsection, to re-
25 port the facts and circumstances to Congress for its consideration.

26 **§ 20114. Administration and Department of Defense coordi-**
27 **nation**

28 (a) **ADVISE AND CONSULT.**—The Administration and the Department of
29 Defense, through the President, shall advise and consult with each other on
30 all matters within their respective jurisdictions related to aeronautical and
31 space activities and shall keep each other fully and currently informed with
32 respect to such activities.

33 (b) **REFERRAL TO THE PRESIDENT.**—If the Secretary of Defense con-
34 cludes that any request, action, proposed action, or failure to act on the
35 part of the Administrator is adverse to the responsibilities of the Depart-
36 ment of Defense, or the Administrator concludes that any request, action,
37 proposed action, or failure to act on the part of the Department of Defense
38 is adverse to the responsibilities of the Administration, and the Adminis-
39 trator and the Secretary of Defense are unable to reach an agreement with
40 respect to the matter, either the Administrator or the Secretary of Defense
41 may refer the matter to the President for a decision (which shall be final).

1 **§ 20115. International cooperation**

2 The Administration, under the foreign policy guidance of the President,
3 may engage in a program of international cooperation in work done pursu-
4 ant to this chapter, and in the peaceful application of the results thereof,
5 pursuant to agreements made by the President with the advice and consent
6 of the Senate.

7 **§ 20116. Reports to Congress**

8 (a) PRESIDENTIAL REPORT.—The President shall transmit to Congress
9 in May of each year a report, which shall include—

10 (1) a comprehensive description of the programmed activities and the
11 accomplishments of all agencies of the United States in the field of aer-
12 onautics and space activities during the preceding fiscal year; and

13 (2) an evaluation of such activities and accomplishments in terms of
14 the attainment of, or the failure to attain, the objectives described in
15 section 20102(d) of this title.

16 (b) RECOMMENDATIONS FOR ADDITIONAL LEGISLATION.—Any report
17 made under this section shall contain such recommendations for additional
18 legislation as the Administrator or the President may consider necessary or
19 desirable for the attainment of the objectives described in section 20102(d)
20 of this title.

21 (c) CLASSIFIED INFORMATION.—No information that has been classified
22 for reasons of national security shall be included in any report made under
23 this section, unless the information has been declassified by, or pursuant to
24 authorization given by, the President.

25 **§ 20117. Disposal of excess land**

26 Notwithstanding the provisions of this or any other law, the Administra-
27 tion may not report to a disposal agency as excess to the needs of the Ad-
28 ministration any land having an estimated value in excess of \$50,000 that
29 is owned by the United States and under the jurisdiction and control of the
30 Administration, unless—

31 (1) a period of 30 days has passed after the receipt by the Speaker
32 and the Committee on Science and Technology of the House of Rep-
33 resentatives and the President and the Committee on Commerce,
34 Science, and Transportation of the Senate of a report by the Adminis-
35 trator or the Administrator's designee containing a full and complete
36 statement of the action proposed to be taken and the facts and cir-
37 cumstances relied upon in support of such action; or

38 (2) each such committee before the expiration of that period has
39 transmitted to the Administrator written notice to the effect that the
40 committee has no objection to the proposed action.

1 SUBCHAPTER III—GENERAL ADMINISTRATIVE PROVISIONS

2 **§ 20131. Public access to information**

3 (a) PUBLIC INSPECTION.—Information obtained or developed by the Ad-
 4 ministrator in the performance of the Administrator’s functions under this
 5 chapter shall be made available for public inspection, except information—

- 6 (1) authorized or required by Federal statute to be withheld;
 7 (2) classified to protect the national security; or
 8 (3) described in subsection (b).

9 (b) SPECIAL HANDLING OF TRADE SECRET OR CONFIDENTIAL INFORMA-
 10 TION.—

11 (1) IN GENERAL.—The Administrator, for a period of up to 5 years
 12 after the development of information described in paragraph (2), may
 13 provide appropriate protections against the dissemination of such infor-
 14 mation, including exemption from subchapter II of chapter 5 of title
 15 5.

16 (2) INFORMATION DESCRIBED.—Information referred to in para-
 17 graph (1) is information that results from activities conducted under
 18 an agreement entered into under subsections (e) and (f) of section
 19 20113 of this title, and that would be a trade secret or commercial or
 20 financial information that is privileged or confidential under the mean-
 21 ing of section 552(b)(4) of title 5 if the information had been obtained
 22 from a non-Federal party participating in such an agreement.

23 (c) COMMITTEES OF CONGRESS.—Nothing in this chapter authorizes the
 24 withholding of information by the Administrator from the duly authorized
 25 committees of Congress.

26 **§ 20132. Security requirements**

27 The Administrator shall establish such security requirements, restrictions,
 28 and safeguards as the Administrator deems necessary in the interest of the
 29 national security. The Administrator may arrange with the Director of the
 30 Office of Personnel Management for the conduct of such security or other
 31 personnel investigations of the Administration’s officers, employees, and
 32 consultants, and its contractors and subcontractors and their officers and
 33 employees, actual or prospective, as the Administrator deems appropriate.
 34 If any such investigation develops any data reflecting that the individual
 35 who is the subject of the investigation is of questionable loyalty, the matter
 36 shall be referred to the Federal Bureau of Investigation for the conduct of
 37 a full field investigation, the results of which shall be furnished to the Ad-
 38 ministrator.

39 **§ 20133. Permission to carry firearms**

40 As the Administrator deems necessary in the public interest, the Adminis-
 41 trator may—

1 (1) direct officers and employees of the Administration to carry fire-
2 arms while in the conduct of their official duties; and

3 (2) authorize employees of contractors and subcontractors of the Ad-
4 ministration who are engaged in the protection of property owned by
5 the United States, and located at facilities owned by or contracted to
6 the United States, to carry firearms while in the conduct of their offi-
7 cial duties.

8 **§ 20134. Arrest authority**

9 Under regulations prescribed by the Administrator and approved by the
10 Attorney General, employees of the Administration and of its contractors
11 and subcontractors authorized to carry firearms under section 20133 of this
12 title may arrest without warrant for any offense against the United States
13 committed in their presence, or for any felony cognizable under the laws of
14 the United States if they have reasonable grounds to believe that the person
15 to be arrested has committed or is committing such felony. Persons granted
16 authority to make arrests by this section may exercise that authority only
17 while guarding and protecting property owned or leased by, or under the
18 control of, the United States under the administration and control of the
19 Administration or one of its contractors or subcontractors, at facilities
20 owned by or contracted to the Administration.

21 **§ 20135. Property rights in inventions**

22 (a) DEFINITIONS.—In this section:

23 (1) CONTRACT.—The term “contract” means any actual or proposed
24 contract, agreement, understanding, or other arrangement, and in-
25 cludes any assignment, substitution of parties, or subcontract executed
26 or entered into thereunder.

27 (2) MADE.—The term “made”, when used in relation to any inven-
28 tion, means the conception or first actual reduction to practice of such
29 invention.

30 (3) PERSON.—The term “person” means any individual, partnership,
31 corporation, association, institution, or other entity.

32 (b) EXCLUSIVE PROPERTY OF UNITED STATES.—

33 (1) IN GENERAL.—An invention shall be the exclusive property of the
34 United States if it is made in the performance of any work under any
35 contract of the Administration, and the Administrator determines
36 that—

37 (A) the person who made the invention was employed or as-
38 signed to perform research, development, or exploration work and
39 the invention is related to the work the person was employed or
40 assigned to perform, or was within the scope of the person’s em-
41 ployment duties, whether or not it was made during working

1 hours, or with a contribution by the Government of the use of
2 Government facilities, equipment, materials, allocated funds, infor-
3 mation proprietary to the Government, or services of Government
4 employees during working hours; or

5 (B) the person who made the invention was not employed or as-
6 signed to perform research, development, or exploration work, but
7 the invention is nevertheless related to the contract, or to the work
8 or duties the person was employed or assigned to perform, and
9 was made during working hours, or with a contribution from the
10 Government of the sort referred to in subparagraph (A).

11 (2) PATENT TO UNITED STATES.—If an invention is the exclusive
12 property of the United States under paragraph (1), and if such inven-
13 tion is patentable, a patent therefor shall be issued to the United
14 States upon application made by the Administrator, unless the Admin-
15 istrator waives all or any part of the rights of the United States to
16 such invention in conformity with the provisions of subsection (g).

17 (c) CONTRACT PROVISIONS FOR FURNISHING REPORTS OF INVENTIONS,
18 DISCOVERIES, IMPROVEMENTS, OR INNOVATIONS.—Each contract entered
19 into by the Administrator with any party for the performance of any work
20 shall contain effective provisions under which the party shall furnish
21 promptly to the Administrator a written report containing full and complete
22 technical information concerning any invention, discovery, improvement, or
23 innovation which may be made in the performance of any such work.

24 (d) PATENT APPLICATION.—No patent may be issued to any applicant
25 other than the Administrator for any invention which appears to the Under
26 Secretary of Commerce for Intellectual Property and Director of the United
27 States Patent and Trademark Office (hereafter in this section referred to
28 as the “Director”) to have significant utility in the conduct of aeronautical
29 and space activities unless the applicant files with the Director, with the ap-
30 plication or within 30 days after request therefor by the Director, a written
31 statement executed under oath setting forth the full facts concerning the
32 circumstances under which the invention was made and stating the relation-
33 ship (if any) of the invention to the performance of any work under any
34 contract of the Administration. Copies of each such statement and the appli-
35 cation to which it relates shall be transmitted forthwith by the Director to
36 the Administrator.

37 (e) ISSUANCE OF PATENT TO APPLICANT.—Upon any application as to
38 which any such statement has been transmitted to the Administrator, the
39 Director may, if the invention is patentable, issue a patent to the applicant
40 unless the Administrator, within 90 days after receipt of the application and
41 statement, requests that the patent be issued to the Administrator on behalf

1 of the United States. If, within such time, the Administrator files such a
2 request with the Director, the Director shall transmit notice thereof to the
3 applicant, and shall issue such patent to the Administrator unless the appli-
4 cant within 30 days after receipt of the notice requests a hearing before the
5 Board of Patent Appeals and Interferences on the question whether the Ad-
6 ministrator is entitled under this section to receive the patent. The Board
7 may hear and determine, in accordance with rules and procedures estab-
8 lished for interference cases, the question so presented, and its determina-
9 tion shall be subject to appeal by the applicant or by the Administrator to
10 the United States Court of Appeals for the Federal Circuit in accordance
11 with procedures governing appeals from decisions of the Board of Patent
12 Appeals and Interferences in other proceedings.

13 (f) SUBSEQUENT TRANSFER OF PATENT IN CASE OF FALSE REPRESENTEN-
14 TATIONS.—Whenever a patent has been issued to an applicant in conformity
15 with subsection (e), and the Administrator thereafter has reason to believe
16 that the statement filed by the applicant in connection with the patent con-
17 tained a false representation of a material fact, the Administrator, within
18 5 years after the date of issuance of the patent, may file with the Director
19 a request for the transfer to the Administrator of title to the patent on the
20 records of the Director. Notice of any such request shall be transmitted by
21 the Director to the owner of record of the patent, and title to the patent
22 shall be so transferred to the Administrator unless, within 30 days after re-
23 ceipt of notice, the owner of record requests a hearing before the Board of
24 Patent Appeals and Interferences on the question whether any such false
25 representation was contained in the statement filed in connection with the
26 patent. The question shall be heard and determined, and the determination
27 shall be subject to review, in the manner prescribed by subsection (e) for
28 questions arising thereunder. A request made by the Administrator under
29 this subsection for the transfer of title to a patent, and prosecution for the
30 violation of any criminal statute, shall not be barred by the failure of the
31 Administrator to make a request under subsection (e) for the issuance of
32 the patent to the Administrator, or by any notice previously given by the
33 Administrator stating that the Administrator had no objection to the
34 issuance of the patent to the applicant.

35 (g) WAIVER OF RIGHTS TO INVENTIONS.—Under such regulations in con-
36 formity with this subsection as the Administrator shall prescribe, the Ad-
37 ministrator may waive all or any part of the rights of the United States
38 under this section with respect to any invention or class of inventions made
39 or which may be made by any person or class of persons in the performance
40 of any work required by any contract of the Administration if the Adminis-
41 trator determines that the interests of the United States will be served

1 thereby. Any such waiver may be made upon such terms and under such
2 conditions as the Administrator shall determine to be required for the pro-
3 tection of the interests of the United States. Each such waiver made with
4 respect to any invention shall be subject to the reservation by the Adminis-
5 trator of an irrevocable, nonexclusive, nontransferable, royalty-free license
6 for the practice of such invention throughout the world by or on behalf of
7 the United States or any foreign government pursuant to any treaty or
8 agreement with the United States. Each proposal for any waiver under this
9 subsection shall be referred to an Inventions and Contributions Board which
10 shall be established by the Administrator within the Administration. Such
11 Board shall accord to each interested party an opportunity for hearing, and
12 shall transmit to the Administrator its findings of fact with respect to such
13 proposal and its recommendations for action to be taken with respect there-
14 to.

15 (h) PROTECTION OF TITLE.—The Administrator is authorized to take all
16 suitable and necessary steps to protect any invention or discovery to which
17 the Administrator has title, and to require contractors or persons who retain
18 title to inventions or discoveries under this section to protect the inventions
19 or discoveries to which the Administration has or may acquire a license of
20 use.

21 (i) ADMINISTRATION AS DEFENSE AGENCY.—The Administration shall be
22 considered a defense agency of the United States for the purpose of chapter
23 17 of title 35.

24 (j) OBJECTS INTENDED FOR LAUNCH, LAUNCHED, OR ASSEMBLED IN
25 OUTER SPACE.—Any object intended for launch, launched, or assembled in
26 outer space shall be considered a vehicle for the purpose of section 272 of
27 title 35.

28 (k) USE OR MANUFACTURE OF PATENTED INVENTIONS INCORPORATED
29 IN SPACE VEHICLES LAUNCHED FOR PERSONS OTHER THAN UNITED
30 STATES.—The use or manufacture of any patented invention incorporated
31 in a space vehicle launched by the United States Government for a person
32 other than the United States shall not be considered to be a use or manu-
33 facture by or for the United States within the meaning of section 1498(a)
34 of title 28, unless the Administration gives an express authorization or con-
35 sent for such use or manufacture.

36 **§ 20136. Contributions awards**

37 (a) APPLICATIONS.—Subject to the provisions of this section, the Admin-
38 istrator is authorized, on the Administrator's own initiative or on applica-
39 tion of any person, to make a monetary award, in an amount and on terms
40 the Administrator determines to be warranted, to any person (as defined by
41 section 20135(a) of this title) for any scientific or technical contribution to

1 the Administration which is determined by the Administrator to have sig-
 2 nificant value in the conduct of aeronautical and space activities. Each ap-
 3 plication made for such an award shall be referred to the Inventions and
 4 Contributions Board established under section 20135 of this title. Such
 5 Board shall accord to each applicant an opportunity for hearing on the ap-
 6 plication, and shall transmit to the Administrator its recommendation as to
 7 the terms of the award, if any, to be made to the applicant for the contribu-
 8 tion. In determining the terms and conditions of an award the Adminis-
 9 trator shall take into account—

10 (1) the value of the contribution to the United States;

11 (2) the aggregate amount of any sums which have been expended by
 12 the applicant for the development of the contribution;

13 (3) the amount of any compensation (other than salary received for
 14 services rendered as an officer or employee of the Government) pre-
 15 viously received by the applicant for or on account of the use of the
 16 contribution by the United States; and

17 (4) any other factors the Administrator determines to be material.

18 (b) APPORTIONMENT OF AWARDS.—If more than one applicant under
 19 subsection (a) claims an interest in the same contribution, the Adminis-
 20 trator shall ascertain and determine the respective interests of the appli-
 21 cants, and shall apportion any award to be made among the applicants in
 22 amounts the Administrator determines to be equitable.

23 (c) SURRENDER OF OTHER CLAIMS.—No award may be made under sub-
 24 section (a) unless the applicant surrenders, by means the Administrator de-
 25 termines to be effective, all claims that the applicant may have to receive
 26 any compensation (other than the award made under this section) for the
 27 use of the contribution or any element thereof at any time by or on behalf
 28 of the United States, or by or on behalf of any foreign government pursuant
 29 to a treaty or agreement with the United States, within the United States
 30 or at any other place.

31 (d) REPORT AND WAITING PERIOD.—No award may be made under sub-
 32 section (a) in an amount exceeding \$100,000 unless the Administrator
 33 transmits to the appropriate committees of Congress a full and complete re-
 34 port concerning the amount and terms of, and the basis for, the proposed
 35 award, and a period of 30 calendar days of regular session of Congress ex-
 36 pires after receipt of the report by the committees.

37 **§ 20137. Malpractice and negligence suits against United**
 38 **States**

39 (a) EXCLUSIVE REMEDY.—The remedy against the United States pro-
 40 vided by sections 1346(b) and 2672 of title 28, for damages for personal
 41 injury, including death, caused by the negligent or wrongful act or omission

1 of any physician, dentist, nurse, pharmacist, or paramedical or other sup-
2 porting personnel (including medical and dental technicians, nursing assist-
3 ants, and therapists) of the Administration in the performance of medical,
4 dental, or related health care functions (including clinical studies and inves-
5 tigation) while acting within the scope of such person's duties or employ-
6 ment therein or therefor shall be exclusive of any other civil action or pro-
7 ceeding by reason of the same subject matter against such person (or the
8 estate of such person) whose act or omission gave rise to the action or pro-
9 ceeding.

10 (b) ATTORNEY GENERAL TO DEFEND ANY CIVIL ACTION OR PRO-
11 CEEDING FOR MALPRACTICE OR NEGLIGENCE.—The Attorney General shall
12 defend any civil action or proceeding brought in any court against any per-
13 son referred to in subsection (a) (or the estate of such person) for any such
14 injury. Any such person against whom such civil action or proceeding is
15 brought shall deliver within such time after date of service or knowledge of
16 service as determined by the Attorney General, all process served upon such
17 person or an attested true copy thereof to such person's immediate superior
18 or to whomever was designated by the Administrator to receive such papers.
19 Such person shall promptly furnish copies of the pleading and process there-
20 in to the United States Attorney for the district embracing the place where-
21 in the proceeding is brought, to the Attorney General, and to the Adminis-
22 trator.

23 (c) REMOVAL OF ACTIONS.—Upon a certification by the Attorney General
24 that any person described in subsection (a) was acting in the scope of such
25 person's duties or employment at the time of the incident out of which the
26 suit arose, any such civil action or proceeding commenced in a State court
27 shall be removed without bond at any time before trial by the Attorney Gen-
28 eral to the district court of the United States of the district and division
29 embracing the place wherein it is pending and the proceeding deemed a tort
30 action brought against the United States under the provisions of title 28,
31 and all references thereto. Should a district court of the United States de-
32 termine, on a hearing on a motion to remand held before a trial on the mer-
33 its, that the case so removed is one in which a remedy by suit within the
34 meaning of subsection (a) is not available against the United States, the
35 case shall be remanded to the State court.

36 (d) COMPROMISE OR SETTLEMENT OF CLAIMS.—The Attorney General
37 may compromise or settle any claim asserted in such civil action or pro-
38 ceeding in the manner provided in section 2677 of title 28, and with the
39 same effect.

40 (e) APPLICABILITY OF OTHER PROVISIONS OF LAW.—For purposes of
41 this section, the provisions of section 2680(h) of title 28 shall not apply to

1 any cause of action arising out of a negligent or wrongful act or omission
 2 in the performance of medical, dental, or related health care functions (in-
 3 cluding clinical studies and investigations).

4 (f) LIABILITY INSURANCE FOR PERSONS ASSIGNED TO FOREIGN COUN-
 5 TRIES OR NON-FEDERAL AGENCIES.—The Administrator or the Adminis-
 6 trator’s designee may, to the extent that the Administrator or the designee
 7 deems appropriate, hold harmless or provide liability insurance for any per-
 8 son described in subsection (a) for damages for personal injury, including
 9 death, caused by such person’s negligent or wrongful act or omission in the
 10 performance of medical, dental, or related health care functions (including
 11 clinical studies and investigations) while acting within the scope of such per-
 12 son’s duties if such person is assigned to a foreign country or detailed for
 13 service with other than a Federal department, agency, or instrumentality or
 14 if the circumstances are such as are likely to preclude the remedies of third
 15 persons against the United States described in section 2679(b) of title 28,
 16 for such damage or injury.

17 **§ 20138. Insurance and indemnification**

18 (a) DEFINITIONS.—In this section:

19 (1) SPACE VEHICLE.—The term “space vehicle” means an object in-
 20 tended for launch, launched, or assembled in outer space, including the
 21 space shuttle and other components of a space transportation system,
 22 together with related equipment, devices, components, and parts.

23 (2) THIRD PARTY.—The term “third party” means any person who
 24 may institute a claim against a user for death, bodily injury, or loss
 25 of or damage to property.

26 (3) USER.—The term “user” includes anyone who enters into an
 27 agreement with the Administration for use of all or a portion of a space
 28 vehicle, who owns or provides property to be flown on a space vehicle,
 29 or who employs a person to be flown on a space vehicle.

30 (b) AUTHORIZATION.—The Administration is authorized on such terms
 31 and to the extent it may deem appropriate to provide liability insurance for
 32 any user of a space vehicle to compensate all or a portion of claims by third
 33 parties for death, bodily injury, or loss of or damage to property resulting
 34 from activities carried on in connection with the launch, operations, or re-
 35 covery of the space vehicle. Appropriations available to the Administration
 36 may be used to acquire such insurance, but such appropriations shall be re-
 37 imbursement to the maximum extent practicable by the users under reimburse-
 38 ment policies established pursuant to section 20113 of this title.

39 (c) INDEMNIFICATION.—Under such regulations in conformity with this
 40 section as the Administrator shall prescribe taking into account the avail-
 41 ability, cost, and terms of liability insurance, any agreement between the

1 Administration and a user of a space vehicle may provide that the United
 2 States will indemnify the user against claims (including reasonable expenses
 3 of litigation or settlement) by third parties for death, bodily injury, or loss
 4 of or damage to property resulting from activities carried on in connection
 5 with the launch, operations, or recovery of the space vehicle, but only to the
 6 extent that such claims are not compensated by liability insurance of the
 7 user. Such indemnification may be limited to claims resulting from other
 8 than the actual negligence or willful misconduct of the user.

9 (d) TERMS OF INDEMNIFICATION AGREEMENT.—An agreement made
 10 under subsection (c) that provides indemnification must also provide for—

11 (1) notice to the United States of any claim or suit against the user
 12 for the death, bodily injury, or loss of or damage to the property; and

13 (2) control of or assistance in the defense by the United States, at
 14 its election, of that suit or claim.

15 (e) CERTIFICATION OF JUST AND REASONABLE AMOUNT.—No payment
 16 may be made under subsection (c) unless the Administrator or the Adminis-
 17 trator’s designee certifies that the amount is just and reasonable.

18 (f) PAYMENTS.—Upon the approval by the Administrator, payments
 19 under subsection (c) may be made, at the Administrator’s election, either
 20 from funds available for research and development not otherwise obligated
 21 or from funds appropriated for such payments.

22 **§ 20139. Insurance for experimental aerospace vehicles**

23 (a) DEFINITIONS.—In this section:

24 (1) COOPERATING PARTY.—The term “cooperating party” means
 25 any person who enters into an agreement with the Administration for
 26 the performance of cooperative scientific, aeronautical, or space activi-
 27 ties to carry out the purposes of this chapter.

28 (2) DEVELOPER.—The term “developer” means a United States per-
 29 son (other than a natural person) who—

30 (A) is a party to an agreement with the Administration for the
 31 purpose of developing new technology for an experimental aero-
 32 space vehicle;

33 (B) owns or provides property to be flown or situated on that
 34 vehicle; or

35 (C) employs a natural person to be flown on that vehicle.

36 (3) EXPERIMENTAL AEROSPACE VEHICLE.—The term “experimental
 37 aerospace vehicle” means an object intended to be flown in, or launched
 38 into, orbital or suborbital flight for the purpose of demonstrating tech-
 39 nologies necessary for a reusable launch vehicle, developed under an
 40 agreement between the Administration and a developer.

1 (4) RELATED ENTITY.—The term “related entity” includes a con-
2 tractor or subcontractor at any tier, a supplier, a grantee, and an in-
3 vestigator or detailee.

4 (b) IN GENERAL.—The Administrator may provide liability insurance for,
5 or indemnification to, the developer of an experimental aerospace vehicle de-
6 veloped or used in execution of an agreement between the Administration
7 and the developer.

8 (c) TERMS AND CONDITIONS.—

9 (1) IN GENERAL.—Except as otherwise provided in this section, the
10 insurance and indemnification provided by the Administration under
11 subsection (b) to a developer shall be provided on the same terms and
12 conditions as insurance and indemnification is provided by the Admin-
13 istration under section 20138 of this title to the user of a space vehicle.

14 (2) INSURANCE.—

15 (A) IN GENERAL.—A developer shall obtain liability insurance
16 or demonstrate financial responsibility in amounts to compensate
17 for the maximum probable loss from claims by—

18 (i) a third party for death, bodily injury, or property dam-
19 age, or loss resulting from an activity carried out in connec-
20 tion with the development or use of an experimental aero-
21 space vehicle; and

22 (ii) the United States Government for damage or loss to
23 Government property resulting from such an activity.

24 (B) MAXIMUM REQUIRED.—The Administrator shall determine
25 the amount of insurance required, but, except as provided in sub-
26 paragraph (C), that amount shall not be greater than the amount
27 required under section 50914(a)(3) of this title for a launch. The
28 Administrator shall publish notice of the Administrator’s deter-
29 mination and the applicable amount or amounts in the Federal
30 Register within 10 days after making the determination.

31 (C) INCREASE IN DOLLAR AMOUNTS.—The Administrator may
32 increase the dollar amounts set forth in section 50914(a)(3)(A) of
33 this title for the purpose of applying that section under this sec-
34 tion to a developer after consultation with the Comptroller General
35 and such experts and consultants as may be appropriate, and after
36 publishing notice of the increase in the Federal Register not less
37 than 180 days before the increase goes into effect. The Adminis-
38 trator shall make available for public inspection, not later than the
39 date of publication of such notice, a complete record of any cor-
40 respondence received by the Administration, and a transcript of

1 any meetings in which the Administration participated, regarding
2 the proposed increase.

3 (D) SAFETY REVIEW REQUIRED BEFORE ADMINISTRATOR PRO-
4 VIDES INSURANCE.—The Administrator may not provide liability
5 insurance or indemnification under subsection (b) unless the devel-
6 oper establishes to the satisfaction of the Administrator that ap-
7 propriate safety procedures and practices are being followed in the
8 development of the experimental aerospace vehicle.

9 (3) NO INDEMNIFICATION WITHOUT CROSS-WAIVER.—Notwith-
10 standing subsection (b), the Administrator may not indemnify a devel-
11 oper of an experimental aerospace vehicle under this section unless
12 there is an agreement between the Administration and the developer
13 described in subsection (d).

14 (4) APPLICATION OF CERTAIN PROCEDURES.—If the Administrator
15 requests additional appropriations to make payments under this sec-
16 tion, like the payments that may be made under section 20138(c) of
17 this title, then the request for those appropriations shall be made in
18 accordance with the procedures established by subsections (d) and (e)
19 of section 50915 of this title.

20 (d) CROSS-WAIVERS.—

21 (1) ADMINISTRATOR AUTHORIZED TO WAIVE.—The Administrator,
22 on behalf of the United States, and its departments, agencies, and in-
23 strumentalities, may reciprocally waive claims with a developer or co-
24 operating party and with the related entities of that developer or co-
25 operating party under which each party to the waiver agrees to be re-
26 sponsible, and agrees to ensure that its own related entities are respon-
27 sible, for damage or loss to its property for which it is responsible, or
28 for losses resulting from any injury or death sustained by its own em-
29 ployees or agents, as a result of activities connected to the agreement
30 or use of the experimental aerospace vehicle.

31 (2) LIMITATIONS.—

32 (A) CLAIMS.—A reciprocal waiver under paragraph (1) may not
33 preclude a claim by any natural person (including, but not limited
34 to, a natural person who is an employee of the United States, the
35 developer, the cooperating party, or their respective subcontractors)
36 or that natural person's estate, survivors, or subrogees for
37 injury or death, except with respect to a subrogee that is a party
38 to the waiver or has otherwise agreed to be bound by the terms
39 of the waiver.

40 (B) LIABILITY FOR NEGLIGENCE.—A reciprocal waiver under
41 paragraph (1) may not absolve any party of liability to any nat-

1 ural person (including, but not limited to, a natural person who
2 is an employee of the United States, the developer, the cooperating
3 party, or their respective subcontractors) or such a natural per-
4 son’s estate, survivors, or subrogees for negligence, except with re-
5 spect to a subrogee that is a party to the waiver or has otherwise
6 agreed to be bound by the terms of the waiver.

7 (C) INDEMNIFICATION FOR DAMAGES.—A reciprocal waiver
8 under paragraph (1) may not be used as the basis of a claim by
9 the Administration, or the developer or cooperating party, for in-
10 demnification against the other for damages paid to a natural per-
11 son, or that natural person’s estate, survivors, or subrogees, for
12 injury or death sustained by that natural person as a result of ac-
13 tivities connected to the agreement or use of the experimental
14 aerospace vehicle.

15 (D) WILLFUL MISCONDUCT.—A reciprocal waiver under para-
16 graph (1) may not relieve the United States, the developer, the co-
17 operating party, or the related entities of the developer or cooper-
18 ating party, of liability for damage or loss resulting from willful
19 misconduct.

20 (3) EFFECT ON PREVIOUS WAIVERS.—This subsection applies to any
21 waiver of claims entered into by the Administration without regard to
22 the date on which the Administration entered into the waiver.

23 (e) RELATIONSHIP TO OTHER LAWS.—

24 (1) SECTION 20138.—This section does not apply to any object,
25 transaction, or operation to which section 20138 of this title applies.

26 (2) SECTION 50919(g)(1).—The Administrator may not provide indem-
27 nification to a developer under this section for launches subject to li-
28 cense under section 50919(g)(1) of this title.

29 (f) TERMINATION.—

30 (1) IN GENERAL.—The provisions of this section shall terminate on
31 December 31, 2010.

32 (2) EFFECT OF TERMINATION ON AGREEMENT.—The termination of
33 this section shall not terminate or otherwise affect any cross-waiver
34 agreement, insurance agreement, indemnification agreement, or other
35 agreement entered into under this section, except as may be provided
36 in that agreement.

37 § 20140. Appropriations

38 (a) AUTHORIZATION.—

39 (1) IN GENERAL.—There are authorized to be appropriated such
40 sums as may be necessary to carry out this chapter, except that noth-

1 ing in this chapter shall authorize the appropriation of any amount
2 for—

3 (A) the acquisition or condemnation of any real property; or

4 (B) any other item of a capital nature (such as plant or facility
5 acquisition, construction, or expansion) which exceeds \$250,000.

6 (2) AVAILABILITY.—Sums appropriated pursuant to this subsection
7 for the construction of facilities, or for research and development activi-
8 ties, shall remain available until expended.

9 (b) USE OF FUNDS FOR EMERGENCY REPAIRS OF EXISTING FACILI-
10 TIES.—Any funds appropriated for the construction of facilities may be used
11 for emergency repairs of existing facilities when such existing facilities are
12 made inoperative by major breakdown, accident, or other circumstances and
13 such repairs are deemed by the Administrator to be of greater urgency than
14 the construction of new facilities.

15 (c) TERMINATION.—Notwithstanding any other provision of law, the au-
16 thorization of any appropriation to the Administration shall expire (unless
17 an earlier expiration is specifically provided) at the close of the third fiscal
18 year following the fiscal year in which the authorization was enacted, to the
19 extent that such appropriation has not theretofore actually been made.

20 **§ 20141. Misuse of agency name and initials**

21 (a) IN GENERAL.—No person (as defined by section 20135(a) of this
22 title) may knowingly use the words “National Aeronautics and Space Ad-
23 ministration” or the letters “NASA”, or any combination, variation, or
24 colorable imitation of those words or letters either alone or in combination
25 with other words or letters—

26 (1) as a firm or business name in a manner reasonably calculated
27 to convey the impression that the firm or business has some connection
28 with, endorsement of, or authorization from, the Administration which
29 does not, in fact, exist; or

30 (2) in connection with any product or service being offered or made
31 available to the public in a manner reasonably calculated to convey the
32 impression that the product or service has the authorization, support,
33 sponsorship, or endorsement of, or the development, use, or manufac-
34 ture by or on behalf of the Administration which does not, in fact,
35 exist.

36 (b) CIVIL PROCEEDING TO ENJOIN.—Whenever it appears to the Attor-
37 ney General that any person is engaged in an act or practice which con-
38 stitutes or will constitute conduct prohibited by subsection (a), the Attorney
39 General may initiate a civil proceeding in a district court of the United
40 States to enjoin such act or practice.

1 **§ 20142. Contracts regarding expendable launch vehicles**

2 (a) COMMITMENTS BEYOND AVAILABLE APPROPRIATIONS.—The Admin-
3 istrator may enter into contracts for expendable launch vehicle services that
4 are for periods in excess of the period for which funds are otherwise avail-
5 able for obligation, provide for the payment for contingent liability which
6 may accrue in excess of available appropriations in the event the Federal
7 Government for its convenience terminates such contracts, and provide for
8 advance payments reasonably related to launch vehicle and related equip-
9 ment, fabrication, and acquisition costs, if any such contract limits the
10 amount of the payments that the Government is allowed to make under
11 such contract to amounts provided in advance in appropriation Acts. Such
12 contracts may be limited to sources within the United States when the Ad-
13 ministrator determines that such limitation is in the public interest.

14 (b) TERMINATION IF FUNDS NOT AVAILABLE.—If funds are not available
15 to continue any such contract, the contract shall be terminated for the con-
16 venience of the Government, and the costs of such contract shall be paid
17 from appropriations originally available for performance of the contract,
18 from other unobligated appropriations currently available for the procure-
19 ment of launch services, or from funds appropriated for such payments.

20 **§ 20143. Full cost appropriations account structure**

21 (a) ACCOUNTS FOR APPROPRIATIONS.—

22 (1) DESIGNATION OF 3 ACCOUNTS.—Appropriations for the Adminis-
23 tration shall be made in 3 accounts, “Science, Aeronautics, and Edu-
24 cation”, “Exploration Systems and Space Operations”, and an account
25 for amounts appropriated for the necessary expenses of the Office of
26 the Inspector General.

27 (2) REPROGRAMMING.—Within the Exploration Systems and Space
28 Operations account, no more than 10 percent of the funds for a fiscal
29 year for Exploration Systems may be reprogrammed for Space Oper-
30 ations, and no more than 10 percent of the funds for a fiscal year for
31 Space Operations may be reprogrammed for Exploration Systems. This
32 paragraph shall not apply to reprogramming for the purposes described
33 in subsection (b)(2).

34 (3) AVAILABILITY.—Appropriations shall remain available for 2 fis-
35 cal years, unless otherwise specified in law. Each account shall include
36 the planned full costs of Administration activities.

37 (b) TRANSFERS AMONG ACCOUNTS.—

38 (1) IN GENERAL.—To ensure the safe, timely, and successful accom-
39 plishment of Administration missions, the Administration may transfer
40 among accounts as necessary, amounts for—

41 (A) Federal salaries and benefits;

- 1 (B) training, travel, and awards;
- 2 (C) facility and related costs;
- 3 (D) information technology services;
- 4 (E) publishing services;
- 5 (F) science, engineering, fabricating, and testing services; and
- 6 (G) other administrative services.

7 (2) DISASTER, ACT OF TERRORISM, EMERGENCY RESCUE.—The Ad-
 8 ministration may also transfer amounts among accounts for the imme-
 9 diate costs of recovering from damage caused by a major disaster (as
 10 defined in section 102 of the Robert T. Stafford Disaster Relief and
 11 Emergency Assistance Act (42 U.S.C. 5122)) or by an act of terrorism,
 12 or for the immediate costs associated with an emergency rescue of as-
 13 tronauts.

14 (c) TRANSFER OF UNEXPIRED BALANCES.—The unexpired balances of
 15 prior appropriations to the Administration for activities authorized under
 16 this chapter may be transferred to the new account established for such ac-
 17 tivity in subsection (a). Balances so transferred may be merged with funds
 18 in the newly established account and thereafter may be accounted for as one
 19 fund under the same terms and conditions.

20 **§ 20144. Prize authority**

21 (a) IN GENERAL.—The Administration may carry out a program to com-
 22 petitively award cash prizes to stimulate innovation in basic and applied re-
 23 search, technology development, and prototype demonstration that have the
 24 potential for application to the performance of the space and aeronautical
 25 activities of the Administration. The Administration may carry out a pro-
 26 gram to award prizes only in conformity with this section.

27 (b) TOPICS.—In selecting topics for prize competitions, the Administrator
 28 shall consult widely both within and outside the Federal Government, and
 29 may empanel advisory committees. The Administrator shall give consider-
 30 ation to prize goals such as the demonstration of the ability to provide en-
 31 ergy to the lunar surface from space-based solar power systems, demonstra-
 32 tion of innovative near-Earth object survey and deflection strategies, and in-
 33 novative approaches to improving the safety and efficiency of aviation sys-
 34 tems.

35 (c) ADVERTISING.—The Administrator shall widely advertise prize com-
 36 petitions to encourage participation.

37 (d) REQUIREMENTS AND REGISTRATION.—For each prize competition,
 38 the Administrator shall publish a notice in the Federal Register announcing
 39 the subject of the competition, the rules for being eligible to participate in
 40 the competition, the amount of the prize, and the basis on which a winner
 41 will be selected.

1 (e) ELIGIBILITY.—To be eligible to win a prize under this section, an in-
2 dividual or entity—

3 (1) shall have registered to participate in the competition pursuant
4 to any rules promulgated by the Administrator under subsection (d);

5 (2) shall have complied with all the requirements under this section;

6 (3) in the case of a private entity, shall be incorporated in and main-
7 tain a primary place of business in the United States, and in the case
8 of an individual, whether participating singly or in a group, shall be
9 a citizen or permanent resident of the United States; and

10 (4) shall not be a Federal entity or Federal employee acting within
11 the scope of their employment.

12 (f) LIABILITY.—

13 (1) ASSUMPTION OF RISK.—Registered participants must agree to
14 assume any and all risks and waive claims against the Federal Govern-
15 ment and its related entities, except in the case of willful misconduct,
16 for any injury, death, damage, or loss of property, revenue, or profits,
17 whether direct, indirect, or consequential, arising from their participa-
18 tion in a competition, whether such injury, death, damage, or loss
19 arises through negligence or otherwise. For the purposes of this para-
20 graph, the term “related entity” means a contractor or subcontractor
21 at any tier, and a supplier, user, customer, cooperating party, grantee,
22 investigator, or detailee.

23 (2) LIABILITY INSURANCE.—Participants must obtain liability insur-
24 ance or demonstrate financial responsibility, in amounts determined by
25 the Administrator, for claims by—

26 (A) a third party for death, bodily injury, or property damage,
27 or loss resulting from an activity carried out in connection with
28 participation in a competition, with the Federal Government
29 named as an additional insured under the registered participant’s
30 insurance policy and registered participants agreeing to indemnify
31 the Federal Government against third party claims for damages
32 arising from or related to competition activities; and

33 (B) the Federal Government for damage or loss to Government
34 property resulting from such an activity.

35 (g) JUDGES.—For each competition, the Administration, either directly or
36 through an agreement under subsection (h), shall assemble a panel of quali-
37 fied judges to select the winner or winners of the prize competition on the
38 basis described pursuant to subsection (d). Judges for each competition
39 shall include individuals from outside the Administration, including from the
40 private sector. A judge may not—

1 (1) have personal or financial interests in, or be an employee, officer,
2 director, or agent of any entity that is a registered participant in a
3 competition; or

4 (2) have a familial or financial relationship with an individual who
5 is a registered participant.

6 (h) ADMINISTERING THE COMPETITION.—The Administrator may enter
7 into an agreement with a private, nonprofit entity to administer the prize
8 competition, subject to the provisions of this section.

9 (i) FUNDING.—

10 (1) SOURCES.—Prizes under this section may consist of Federal ap-
11 propriated funds and funds provided by the private sector for such cash
12 prizes. The Administrator may accept funds from other Federal agen-
13 cies for such cash prizes. The Administrator may not give any special
14 consideration to any private sector entity in return for a donation.

15 (2) AVAILABILITY.—

16 (A) DEFINITION OF PROVISIONS KNOWN AS THE ANTI-DEFI-
17 CIENCY ACT.—In this paragraph, the term “provisions known as
18 the Anti-Deficiency Act” means sections 1341, 1342, 1349(a),
19 1350, 1351, 1511, 1512, 1513, 1514, 1515, 1516, 1517, 1518,
20 and 1519 of title 31.

21 (B) IN GENERAL.—Notwithstanding any other provision of law,
22 funds appropriated for prize awards under this section shall re-
23 main available until expended, and may be transferred, repro-
24 grammed, or expended for other purposes only after the expiration
25 of 10 fiscal years after the fiscal year for which the funds were
26 originally appropriated. No provision in this section permits obli-
27 gation or payment of funds in violation of the provisions known
28 as the Anti-Deficiency Act.

29 (3) APPROPRIATION OR COMMITMENT OF FUNDS REQUIRED BEFORE
30 ANNOUNCEMENT OF PRIZE OR INCREASE.—

31 (A) IN GENERAL.—No prize may be announced under sub-
32 section (d) until all the funds needed to pay out the announced
33 amount of the prize have been appropriated or committed in writ-
34 ing by a private source.

35 (B) INCREASE.—The Administrator may increase the amount of
36 a prize after an initial announcement is made under subsection (d)
37 if—

38 (i) notice of the increase is provided in the same manner
39 as the initial notice of the prize; and

1 (ii) the funds needed to pay out the announced amount of
 2 the increase have been appropriated or committed in writing
 3 by a private source.

4 (4) NOTICE TO COMMITTEES FOR PRIZE GREATER THAN
 5 \$50,000,000.—No prize competition under this section may offer a prize
 6 in an amount greater than \$50,000,000 unless 30 days have elapsed
 7 after written notice has been transmitted to the Committee on Science
 8 and Technology of the House of Representatives and the Committee on
 9 Commerce, Science, and Transportation of the Senate.

10 (5) APPROVAL OF ADMINISTRATOR FOR PRIZE GREATER THAN
 11 \$1,000,000.—No prize competition under this section may result in the
 12 award of more than \$1,000,000 in cash prizes without the approval of
 13 the Administrator.

14 (j) USE OF ADMINISTRATION NAME OR INSIGNIA.—A registered partici-
 15 pant in a competition under this section may use the Administration’s
 16 name, initials, or insignia only after prior review and written approval by
 17 the Administration.

18 (k) COMPLIANCE WITH EXISTING LAW.—The Federal Government shall
 19 not, by virtue of offering or providing a prize under this section, be respon-
 20 sible for compliance by registered participants in a prize competition with
 21 Federal law, including licensing, export control, and non-proliferation laws,
 22 and related regulations.

23 **§ 20145. Lease of non-excess property**

24 (a) IN GENERAL.—The Administrator may enter into a lease under this
 25 section with any person or entity (including another department or agency
 26 of the Federal Government or an entity of a State or local government) with
 27 regard to any non-excess real property and related personal property under
 28 the jurisdiction of the Administrator.

29 (b) CASH CONSIDERATION.—

30 (1) FAIR MARKET VALUE.—A person or entity entering into a lease
 31 under this section shall provide cash consideration for the lease at fair
 32 market value as determined by the Administrator.

33 (2) UTILIZATION.—

34 (A) IN GENERAL.—The Administrator may utilize amounts of
 35 cash consideration received under this subsection for a lease en-
 36 tered into under this section to cover the full costs to the Adminis-
 37 tration in connection with the lease. These funds shall remain
 38 available until expended.

39 (B) CAPITAL REVITALIZATION AND IMPROVEMENTS.—Of any
 40 amounts of cash consideration received under this subsection that
 41 are not utilized in accordance with subparagraph (A)—

1 (i) 35 percent shall be deposited in a capital asset account
2 to be established by the Administrator, shall be available for
3 maintenance, capital revitalization, and improvements of the
4 real property assets and related personal property under the
5 jurisdiction of the Administrator, and shall remain available
6 until expended; and

7 (ii) the remaining 65 percent shall be available to the re-
8 spective center or facility of the Administration engaged in
9 the lease of nonexcess real property, and shall remain avail-
10 able until expended for maintenance, capital revitalization,
11 and improvements of the real property assets and related per-
12 sonal property at the respective center or facility subject to
13 the concurrence of the Administrator.

14 (C) NO UTILIZATION FOR DAILY OPERATING COSTS.—Amounts
15 utilized under subparagraph (B) may not be utilized for daily op-
16 erating costs.

17 (e) ADDITIONAL TERMS AND CONDITIONS.—The Administrator may re-
18 quire such terms and conditions in connection with a lease under this sec-
19 tion as the Administrator considers appropriate to protect the interests of
20 the United States.

21 (d) RELATIONSHIP TO OTHER LEASE AUTHORITY.—The authority under
22 this section to lease property of the Administration is in addition to any
23 other authority to lease property of the Administration under law.

24 (e) LEASE RESTRICTIONS.—

25 (1) NO LEASE BACK OR OTHER CONTRACT.—The Administration is
26 not authorized to lease back property under this section during the
27 term of the out-lease or enter into other contracts with the lessee re-
28 specting the property.

29 (2) CERTIFICATION THAT OUT-LEASE WILL NOT HAVE NEGATIVE IM-
30 PACT ON MISSION.—The Administration is not authorized to enter into
31 an out-lease under this section unless the Administrator certifies that
32 the out-lease will not have a negative impact on the mission of the Ad-
33 ministration.

34 (f) REPORTING REQUIREMENTS.—The Administrator shall submit an an-
35 nual report by January 31st of each year. The report shall include the fol-
36 lowing:

37 (1) VALUE OF ARRANGEMENTS AND EXPENDITURES OF REVE-
38 NUES.—Information that identifies and quantifies the value of the ar-
39 rangements and expenditures of revenues received under this section.

1 (2) AVAILABILITY AND USE OF FUNDS FOR OPERATING PLAN.—The
2 availability and use of funds received under this section for the Admin-
3 istration’s operating plan.

4 (g) SUNSET.—The authority to enter into leases under this section shall
5 expire 10 years after December 26, 2007. The expiration under this sub-
6 section of authority to enter into leases under this section shall not affect
7 the validity or term of leases or the Administration’s retention of proceeds
8 from leases entered into under this section before the expiration of the au-
9 thority.

10 **§ 20146. Retrocession of jurisdiction**

11 (a) DEFINITION OF STATE.—In this section, the term “State” means any
12 of the several States, the District of Columbia, the Commonwealth of Puerto
13 Rico, the United States Virgin Islands, Guam, American Samoa, the North-
14 ern Mariana Islands, and any other commonwealth, territory, or possession
15 of the United States.

16 (b) RELINQUISHING LEGISLATIVE JURISDICTION.—Notwithstanding any
17 other provision of law, the Administrator may relinquish to a State all or
18 part of the legislative jurisdiction of the United States over lands or inter-
19 ests under the control of the Administrator in that State.

20 **§ 20147. Recovery and disposition authority**

21 (a) DEFINITIONS.—In this section:

22 (1) ADMINISTRATION HUMAN SPACE FLIGHT VEHICLE.—The term
23 “Administration human space flight vehicle” means a space vehicle, as
24 defined in section 20138(a) of this title, that—

25 (A) is intended to transport one or more persons;

26 (B) is designed to operate in outer space; and

27 (C) is either—

28 (i) owned by the Administration; or

29 (ii) owned by an Administration contractor or cooperating
30 party and operated as part of an Administration mission or
31 a joint mission with the Administration.

32 (2) CREWMEMBER.—The term “crewmember” means an astronaut
33 or other person assigned to an Administration human space flight vehi-
34 cle.

35 (b) CONTROL OF REMAINS.—

36 (1) IN GENERAL.—Subject to paragraphs (2) and (3), when there is
37 an accident or mishap resulting in the death of a crewmember of an
38 Administration human space flight vehicle, the Administrator may take
39 control over the remains of the crewmember and order autopsies and
40 other scientific or medical tests.

1 (2) TREATMENT.—Each crewmember shall provide the Adminis-
2 trator with the crewmember’s preferences regarding the treatment ac-
3 corded to the crewmember’s remains and the Administrator shall, to
4 the extent possible, respect those stated preferences.

5 (3) CONSTRUCTION.—This section shall not be construed to permit
6 the Administrator to interfere with any Federal investigation of a mis-
7 hap or accident.

8 SUBCHAPTER IV—UPPER ATMOSPHERE RESEARCH

9 **§ 20161. Congressional declaration of purpose and policy**

10 (a) PURPOSE.—The purpose of this subchapter is to authorize and direct
11 the Administration to develop and carry out a comprehensive program of
12 research, technology, and monitoring of the phenomena of the upper atmo-
13 sphere so as to provide for an understanding of and to maintain the chemical
14 and physical integrity of the Earth’s upper atmosphere.

15 (b) POLICY.—Congress declares that it is the policy of the United States
16 to undertake an immediate and appropriate research, technology, and moni-
17 toring program that will provide for understanding the physics and chem-
18 istry of the Earth’s upper atmosphere.

19 **§ 20162. Definition of upper atmosphere**

20 In this subchapter, the term “upper atmosphere” means that portion of
21 the Earth’s sensible atmosphere above the troposphere.

22 **§ 20163. Program authorized**

23 (a) IN GENERAL.—In order to carry out the purposes of this subchapter,
24 the Administration, in cooperation with other Federal agencies, shall initiate
25 and carry out a program of research, technology, monitoring, and other ap-
26 propriate activities directed to understand the physics and chemistry of the
27 upper atmosphere.

28 (b) ACTIVITIES.—In carrying out the provisions of this subchapter, the
29 Administration shall—

30 (1) arrange for participation by the scientific and engineering com-
31 munity, of both the Nation’s industrial organizations and institutions
32 of higher education, in planning and carrying out appropriate research,
33 in developing necessary technology, and in making necessary observa-
34 tions and measurements;

35 (2) provide, by way of grant, contract, scholarships, or other ar-
36 rangements, to the maximum extent practicable and consistent with
37 other laws, for the widest practicable and appropriate participation of
38 the scientific and engineering community in the program authorized by
39 this subchapter; and

1 (3) make all results of the program authorized by this subchapter
2 available to the appropriate regulatory agencies and provide for the
3 widest practicable dissemination of such results.

4 **§ 20164. International cooperation**

5 In carrying out the provisions of this subchapter, the Administration, sub-
6 ject to the direction of the President and after consultation with the Sec-
7 retary of State, shall make every effort to enlist the support and cooperation
8 of appropriate scientists and engineers of other countries and international
9 organizations.

10 **CHAPTER 203—RESPONSIBILITIES AND VISION**

Sec.

20301. General responsibilities.

20302. Vision for space exploration.

20303. Contribution to innovation.

20304. Basic research enhancement.

20305. National Academies decadal surveys.

11 **§ 20301. General responsibilities**

12 (a) PROGRAMS.—The Administrator shall ensure that the Administration
13 carries out a balanced set of programs that shall include, at a minimum,
14 programs in—

15 (1) human space flight, in accordance with section 20302 of this
16 title;

17 (2) aeronautics research and development; and

18 (3) scientific research, which shall include, at a minimum—

19 (A) robotic missions to study the Moon and other planets and
20 their moons, and to deepen understanding of astronomy, astro-
21 physics, and other areas of science that can be productively stud-
22 ied from space;

23 (B) Earth science research and research on the Sun-Earth con-
24 nection through the development and operation of research sat-
25 ellites and other means;

26 (C) support of university research in space science, Earth
27 science, and microgravity science; and

28 (D) research on microgravity, including research that is not di-
29 rectly related to human exploration.

30 (b) CONSULTATION AND COORDINATION.—In carrying out the programs
31 of the Administration, the Administrator shall—

32 (1) consult and coordinate to the extent appropriate with other rel-
33 evant Federal agencies, including through the National Science and
34 Technology Council;

35 (2) work closely with the private sector, including by—

1 (A) encouraging the work of entrepreneurs who are seeking to
2 develop new means to launch satellites, crew, or cargo;

3 (B) contracting with the private sector for crew and cargo serv-
4 ices, including to the International Space Station, to the extent
5 practicable;

6 (C) using commercially available products (including software)
7 and services to the extent practicable to support all Administration
8 activities; and

9 (D) encouraging commercial use and development of space to
10 the greatest extent practicable; and

11 (3) involve other nations to the extent appropriate.

12 **§ 20302. Vision for space exploration**

13 (a) IN GENERAL.—The Administrator shall establish a program to de-
14 velop a sustained human presence on the Moon, including a robust pre-
15 cursor program, to promote exploration, science, commerce, and United
16 States preeminence in space, and as a stepping-stone to future exploration
17 of Mars and other destinations. The Administrator is further authorized to
18 develop and conduct appropriate international collaborations in pursuit of
19 these goals.

20 (b) MILESTONES.—The Administrator shall manage human space flight
21 programs to strive to achieve the following milestones (in conformity with
22 section 70502 of this title):

23 (1) Returning Americans to the Moon no later than 2020.

24 (2) Launching the Crew Exploration Vehicle as close to 2010 as pos-
25 sible.

26 (3) Increasing knowledge of the impacts of long duration stays in
27 space on the human body using the most appropriate facilities avail-
28 able, including the International Space Station.

29 (4) Enabling humans to land on and return from Mars and other
30 destinations on a timetable that is technically and fiscally possible.

31 **§ 20303. Contribution to innovation**

32 (a) PARTICIPATION IN INTERAGENCY ACTIVITIES.—The Administration
33 shall be a full participant in any interagency effort to promote innovation
34 and economic competitiveness through near-term and long-term basic sci-
35 entific research and development and the promotion of science, technology,
36 engineering, and mathematics education, consistent with the Administra-
37 tion’s mission, including authorized activities.

38 (b) HISTORIC FOUNDATION.—In order to carry out the participation de-
39 scribed in subsection (a), the Administrator shall build on the historic role
40 of the Administration in stimulating excellence in the advancement of phys-
41 ical science and engineering disciplines and in providing opportunities and

1 incentives for the pursuit of academic studies in science, technology, engi-
2 neering, and mathematics.

3 (c) BALANCED SCIENCE PROGRAM AND ROBUST AUTHORIZATION LEV-
4 ELS.—The balanced science program authorized by section 101(d) of the
5 National Aeronautics and Space Administration Authorization Act of 2005
6 (42 U.S.C. 16611(d)) shall be an element of the contribution by the Admin-
7 istration to the interagency programs.

8 (d) ANNUAL REPORT.—

9 (1) REQUIREMENT.—The Administrator shall submit to Congress
10 and the President an annual report describing the activities conducted
11 pursuant to this section, including a description of the goals and the
12 objective metrics upon which funding decisions were made.

13 (2) CONTENT.—Each report submitted pursuant to paragraph (1)
14 shall include, with regard to science, technology, engineering, and
15 mathematics education programs, at a minimum, the following:

16 (A) A description of each program.

17 (B) The amount spent on each program.

18 (C) The number of students or teachers served by each pro-
19 gram.

20 **§ 20304. Basic research enhancement**

21 (a) DEFINITION OF BASIC RESEARCH.—In this section, the term “basic
22 research” has the meaning given the term in Office of Management and
23 Budget Circular No. A–11.

24 (b) COORDINATION.—The Administrator, the Director of the National
25 Science Foundation, the Secretary of Energy, the Secretary of Defense, and
26 the Secretary of Commerce shall, to the extent practicable, coordinate basic
27 research activities related to physical sciences, technology, engineering, and
28 mathematics.

29 **§ 20305. National Academies decadal surveys**

30 (a) IN GENERAL.—The Administrator shall enter into agreements on a
31 periodic basis with the National Academies for independent assessments,
32 also known as decadal surveys, to take stock of the status and opportunities
33 for Earth and space science discipline fields and Aeronautics research and
34 to recommend priorities for research and programmatic areas over the next
35 decade.

36 (b) INDEPENDENT COST ESTIMATES.—The agreements described in sub-
37 section (a) shall include independent estimates of the life cycle costs and
38 technical readiness of missions assessed in the decadal surveys whenever
39 possible.

40 (c) REEXAMINATION.—The Administrator shall request that each Na-
41 tional Academies decadal survey committee identify any conditions or

1 events, such as significant cost growth or scientific or technological ad-
 2 vances, that would warrant the Administration asking the National Acad-
 3 emies to reexamine the priorities that the decadal survey had established.

4 **Subtitle III—Administrative Provisions**

5 **CHAPTER 301—APPROPRIATIONS, BUDGETS, AND** 6 **ACCOUNTING**

Sec.

30101. Prior authorization of appropriations required.

30102. Working capital fund.

30103. Budgets.

30104. Baselines and cost controls.

7 **§ 30101. Prior authorization of appropriations required**

8 Notwithstanding the provisions of any other law, no appropriation may
 9 be made to the Administration unless previously authorized by legislation
 10 enacted by Congress.

11 **§ 30102. Working capital fund**

12 (a) ESTABLISHMENT.—There is hereby established in the United States
 13 Treasury an Administration working capital fund.

14 (b) AVAILABILITY OF AMOUNTS.—

15 (1) IN GENERAL.—Amounts in the fund are available for financing
 16 activities, services, equipment, information, and facilities as authorized
 17 by law to be provided—

18 (A) within the Administration;

19 (B) to other agencies or instrumentalities of the United States;

20 (C) to any State, territory, or possession or political subdivision
 21 thereof;

22 (D) to other public or private agencies; or

23 (E) to any person, firm, association, corporation, or educational
 24 institution on a reimbursable basis.

25 (2) CAPITAL REPAIRS.—The fund shall also be available for the pur-
 26 pose of funding capital repairs, renovations, rehabilitation,
 27 sustainment, demolition, or replacement of Administration real prop-
 28 erty, on a reimbursable basis within the Administration.

29 (3) NO FISCAL YEAR LIMITATION.—Amounts in the fund are avail-
 30 able without regard to fiscal year limitation.

31 (c) CONTENTS.—The capital of the fund consists of—

32 (1) amounts appropriated to the fund;

33 (2) the reasonable value of stocks of supplies, equipment, and other
 34 assets and inventories on order that the Administrator transfers to the
 35 fund, less the related liabilities and unpaid obligations; and

36 (3) payments received for loss or damage to property of the fund.

1 (d) REIMBURSEMENT.—The fund shall be reimbursed, in advance, for
 2 supplies and services at rates that will approximate the expenses of oper-
 3 ation, such as the accrual of annual leave, depreciation of plant, property,
 4 and equipment, and overhead.

5 **§ 30103. Budgets**

6 (a) CATEGORIES.—The proposed budget for the Administration submitted
 7 by the President for each fiscal year shall be accompanied by documents
 8 showing—

9 (1) by program—

10 (A) the budget for space operations, including the International
 11 Space Station and the space shuttle;

12 (B) the budget for exploration systems;

13 (C) the budget for aeronautics;

14 (D) the budget for space science;

15 (E) the budget for Earth science;

16 (F) the budget for microgravity science;

17 (G) the budget for education;

18 (H) the budget for safety oversight; and

19 (I) the budget for public relations;

20 (2) the budget for technology transfer programs;

21 (3) the budget for the Integrated Enterprise Management Program,
 22 by individual element;

23 (4) the budget for the Independent Technical Authority, both total
 24 and by center;

25 (5) the total budget for the prize program under section 20144 of
 26 this title, and the administrative budget for that program; and

27 (6) the comparable figures for at least the 2 previous fiscal years for
 28 each item in the proposed budget.

29 (b) ADDITIONAL BUDGET INFORMATION UPON REQUEST BY COMMIT-
 30 TEES.—The Administration shall make available, upon request from the
 31 Committee on Science and Technology of the House of Representatives or
 32 the Committee on Commerce, Science, and Transportation of the Senate—

33 (1) information on corporate and center general and administrative
 34 costs and service pool costs, including—

35 (A) the total amount of funds being allocated for those purposes
 36 for any fiscal year for which the President has submitted an an-
 37 nual budget request to Congress;

38 (B) the amount of funds being allocated for those purposes for
 39 each center, for headquarters, and for each directorate; and

40 (C) the major activities included in each cost category; and

1 (2) the figures on the amount of unobligated funds and unexpended
2 funds, by appropriations account—

3 (A) that remained at the end of the fiscal year prior to the fis-
4 cal year in which the budget is being presented that were carried
5 over into the fiscal year in which the budget is being presented;

6 (B) that are estimated will remain at the end of the fiscal year
7 in which the budget is being presented that are proposed to be
8 carried over into the fiscal year for which the budget is being pre-
9 sented; and

10 (C) that are estimated will remain at the end of the fiscal year
11 for which the budget is being presented.

12 (c) INFORMATION IN ANNUAL BUDGET JUSTIFICATION.—The Adminis-
13 tration shall provide, at a minimum, the following information in its annual
14 budget justification:

15 (1) The actual, current, proposed funding level, and estimated budg-
16 ets for the next 5 fiscal years by directorate, theme, program, project
17 and activity within each appropriations account.

18 (2) The proposed programmatic and non-programmatic construction
19 of facilities.

20 (3) The budget for headquarters including—

21 (A) the budget by office, and any division thereof, for the ac-
22 tual, current, proposed funding level, and estimated budgets for
23 the next 5 fiscal years;

24 (B) the travel budget for each office, and any division thereof,
25 for the actual, current, and proposed funding level; and

26 (C) the civil service full time equivalent assignments per head-
27 quarters office, and any division thereof, including the number of
28 Senior Executive Service, noncareer, detailee, and contract per-
29 sonnel per office.

30 (4) Within 14 days of the submission of the budget to Congress an
31 accompanying volume shall be provided to the Committees on Appro-
32 priations containing the following information for each center, facility
33 managed by any center, and federally funded research and development
34 center operated on behalf of the Administration:

35 (A) The actual, current, proposed funding level, and estimated
36 budgets for the next 5 fiscal years by directorate, theme, program,
37 project, and activity.

38 (B) The proposed programmatic and non-programmatic con-
39 struction of facilities.

40 (C) The number of civil service full time equivalent positions per
41 center for each identified fiscal year.

1 (D) The number of civil service full time equivalent positions
2 considered to be uncovered capacity at each location for each iden-
3 tified fiscal year.

4 (5) The proposed budget as designated by object class for each direc-
5 torate, theme, and program.

6 (6) Sufficient narrative shall be provided to explain the request for
7 each program, project, and activity, and an explanation for any devi-
8 ation to previously adopted baselines for all justification materials pro-
9 vided to the Committees.

10 (d) ESTIMATE OF GROSS RECEIPTS AND PROPOSED USE OF FUNDS RE-
11 LATED TO LEASE OF PROPERTY.—Each annual budget request shall include
12 an annual estimate of gross receipts and collections and proposed use of all
13 funds collected pursuant to section 20145 of this title.

14 **§ 30104. Baselines and cost controls**

15 (a) DEFINITIONS.—In this section:

16 (1) DEVELOPMENT.—The term “development” means the phase of
17 a program following the formulation phase and beginning with the ap-
18 proval to proceed to implementation, as defined in the Administration’s
19 Procedural Requirements 7120.5c, dated March 22, 2005.

20 (2) DEVELOPMENT COST.—The term “development cost” means the
21 total of all costs, including construction of facilities and civil servant
22 costs, from the period beginning with the approval to proceed to imple-
23 mentation through the achievement of operational readiness, without
24 regard to funding source or management control, for the life of the pro-
25 gram.

26 (3) LIFE-CYCLE COST.—The term “life-cycle cost” means the total
27 of the direct, indirect, recurring, and nonrecurring costs, including the
28 construction of facilities and civil servant costs, and other related ex-
29 penses incurred or estimated to be incurred in the design, development,
30 verification, production, operation, maintenance, support, and retire-
31 ment of a program over its planned lifespan, without regard to funding
32 source or management control.

33 (4) MAJOR PROGRAM.—The term “major program” means an activ-
34 ity approved to proceed to implementation that has an estimated life-
35 cycle cost of more than \$250,000,000.

36 (b) CONDITIONS FOR DEVELOPMENT.—

37 (1) IN GENERAL.—The Administration shall not enter into a con-
38 tract for the development of a major program unless the Administrator
39 determines that—

1 (A) the technical, cost, and schedule risks of the program are
2 clearly identified and the program has developed a plan to manage
3 those risks;

4 (B) the technologies required for the program have been dem-
5 onstrated in a relevant laboratory or test environment; and

6 (C) the program complies with all relevant policies, regulations,
7 and directives of the Administration.

8 (2) REPORT.—The Administrator shall transmit a report describing
9 the basis for the determination required under paragraph (1) to the
10 Committee on Science and Technology of the House of Representatives
11 and the Committee on Commerce, Science, and Transportation of the
12 Senate at least 30 days before entering into a contract for development
13 under a major program.

14 (3) NONDELEGATION.—The Administrator may not delegate the de-
15 termination requirement under this subsection, except in cases in which
16 the Administrator has a conflict of interest.

17 (c) MAJOR PROGRAM ANNUAL REPORTS.—

18 (1) REQUIREMENT.—Annually, at the same time as the President’s
19 annual budget submission to Congress, the Administrator shall trans-
20 mit to the Committee on Science and Technology of the House of Rep-
21 resentatives and the Committee on Commerce, Science, and Transpor-
22 tation of the Senate a report that includes the information required by
23 this section for each major program for which the Administration pro-
24 poses to expend funds in the subsequent fiscal year. Reports under this
25 paragraph shall be known as Major Program Annual Reports.

26 (2) BASELINE REPORT.—The first Major Program Annual Report
27 for each major program shall include a Baseline Report that shall, at
28 a minimum, include—

29 (A) the purposes of the program and key technical characteris-
30 tics necessary to fulfill those purposes;

31 (B) an estimate of the life-cycle cost for the program, with a
32 detailed breakout of the development cost, program reserves, and
33 an estimate of the annual costs until development is completed;

34 (C) the schedule for development, including key program mile-
35 stones;

36 (D) the plan for mitigating technical, cost, and schedule risks
37 identified in accordance with subsection (b)(1)(A); and

38 (E) the name of the person responsible for making notifications
39 under subsection (d), who shall be an individual whose primary re-
40 sponsibility is overseeing the program.

1 (3) INFORMATION UPDATES.—For major programs for which a
2 Baseline Report has been submitted, each subsequent Major Program
3 Annual Report shall describe any changes to the information that had
4 been provided in the Baseline Report, and the reasons for those
5 changes.

6 (d) NOTIFICATION.—

7 (1) REQUIREMENT.—The individual identified under subsection
8 (e)(2)(E) shall immediately notify the Administrator any time that in-
9 dividual has reasonable cause to believe that, for the major program
10 for which he or she is responsible—

11 (A) the development cost of the program is likely to exceed the
12 estimate provided in the Baseline Report of the program by 15
13 percent or more; or

14 (B) a milestone of the program is likely to be delayed by 6
15 months or more from the date provided for it in the Baseline Re-
16 port of the program.

17 (2) REASONS.—Not later than 30 days after the notification required
18 under paragraph (1), the individual identified under subsection
19 (e)(2)(E) shall transmit to the Administrator a written notification ex-
20 plaining the reasons for the change in the cost or milestone of the pro-
21 gram for which notification was provided under paragraph (1).

22 (3) NOTIFICATION OF CONGRESS.—Not later than 15 days after the
23 Administrator receives a written notification under paragraph (2), the
24 Administrator shall transmit the notification to the Committee on
25 Science and Technology of the House of Representatives and the Com-
26 mittee on Commerce, Science, and Transportation of the Senate.

27 (e) FIFTEEN PERCENT THRESHOLD.—

28 (1) DETERMINATION, REPORT, AND INITIATION OF ANALYSIS.—Not
29 later than 30 days after receiving a written notification under sub-
30 section (d)(2), the Administrator shall determine whether the develop-
31 ment cost of the program is likely to exceed the estimate provided in
32 the Baseline Report of the program by 15 percent or more, or whether
33 a milestone is likely to be delayed by 6 months or more. If the deter-
34 mination is affirmative, the Administrator shall—

35 (A) transmit to the Committee on Science and Technology of
36 the House of Representatives and the Committee on Commerce,
37 Science, and Transportation of the Senate, not later than 15 days
38 after making the determination, a report that includes—

39 (i) a description of the increase in cost or delay in schedule
40 and a detailed explanation for the increase or delay;

1 (ii) a description of actions taken or proposed to be taken
2 in response to the cost increase or delay; and

3 (iii) a description of any impacts the cost increase or sched-
4 ule delay, or the actions described under clause (ii), will have
5 on any other program within the Administration; and

6 (B) if the Administrator intends to continue with the program,
7 promptly initiate an analysis of the program, which shall include,
8 at a minimum—

9 (i) the projected cost and schedule for completing the pro-
10 gram if current requirements of the program are not modi-
11 fied;

12 (ii) the projected cost and the schedule for completing the
13 program after instituting the actions described under sub-
14 paragraph (A)(ii); and

15 (iii) a description of, and the projected cost and schedule
16 for, a broad range of alternatives to the program.

17 (2) COMPLETION OF ANALYSIS AND TRANSMITTAL TO COMMIT-
18 TEES.—The Administration shall complete an analysis initiated under
19 paragraph (1)(B) not later than 6 months after the Administrator
20 makes a determination under this subsection. The Administrator shall
21 transmit the analysis to the Committee on Science and Technology of
22 the House of Representatives and Committee on Commerce, Science,
23 and Transportation of the Senate not later than 30 days after its com-
24 pletion.

25 (f) THIRTY PERCENT THRESHOLD.—If the Administrator determines
26 under subsection (e) that the development cost of a program will exceed the
27 estimate provided in the Baseline Report of the program by more than 30
28 percent, then, beginning 18 months after the date the Administrator trans-
29 mits a report under subsection (e)(1)(A), the Administrator shall not expend
30 any additional funds on the program, other than termination costs, unless
31 Congress has subsequently authorized continuation of the program by law.
32 An appropriation for the specific program enacted subsequent to a report
33 being transmitted shall be considered an authorization for purposes of this
34 subsection. If the program is continued, the Administrator shall submit a
35 new Baseline Report for the program no later than 90 days after the date
36 of enactment of the Act under which Congress has authorized continuation
37 of the program.

38 **CHAPTER 303—CONTRACTING AND PROCUREMENT**

Sec.

30301. Guaranteed customer base.

30302. Quality assurance personnel.

- 30303. Tracking and data relay satellite services.
- 30304. Award of contracts to small businesses and disadvantaged individuals.
- 30305. Outreach program.
- 30306. Small business contracting.
- 30307. Requirement for independent cost analysis.
- 30308. Cost effectiveness calculations.
- 30309. Use of abandoned and underutilized buildings, grounds, and facilities.
- 30310. Exception to alternative fuel procurement requirement.

1 **§ 30301. Guaranteed customer base**

2 No amount appropriated to the Administration may be used to fund
3 grants, contracts, or other agreements with an expected duration of more
4 than one year, when a primary effect of the grant, contract, or agreement
5 is to provide a guaranteed customer base for or establish an anchor tenancy
6 in new commercial space hardware or services unless an appropriations Act
7 specifies the new commercial space hardware or services to be developed or
8 used, or the grant, contract, or agreement is otherwise identified in such
9 Act.

10 **§ 30302. Quality assurance personnel**

11 (a) EXCLUSION OF ADMINISTRATION PERSONNEL.—A person providing
12 articles to the Administration under a contract entered into after December
13 9, 1991, may not exclude Administration quality assurance personnel from
14 work sites except as provided in a contract provision that has been sub-
15 mitted to Congress as provided in subsection (b).

16 (b) CONTRACT PROVISIONS.—The Administration shall not enter into any
17 contract which permits the exclusion of Administration quality assurance
18 personnel from work sites unless the Administrator has submitted a copy
19 of the provision permitting such exclusion to Congress at least 60 days be-
20 fore entering into the contract.

21 **§ 30303. Tracking and data relay satellite services**

22 (a) CONTRACTS.—The Administration is authorized, when so provided in
23 an appropriation Act, to enter into and to maintain a contract for tracking
24 and data relay satellite services. Such services shall be furnished to the Ad-
25 ministration in accordance with applicable authorization and appropriations
26 Acts. The Government shall incur no costs under such contract prior to the
27 furnishing of such services except that the contract may provide for the pay-
28 ment for contingent liability of the Government which may accrue in the
29 event the Government should decide for its convenience to terminate the
30 contract before the end of the period of the contract. Facilities which may
31 be required in the performance of the contract may be constructed on Gov-
32 ernment-owned lands if there is included in the contract a provision under
33 which the Government may acquire title to the facilities, under terms and
34 conditions agreed upon in the contract, upon termination of the contract.

35 (b) REPORTS TO CONGRESS.—The Administrator shall in January of
36 each year report to the Committee on Science and Technology and the Com-

1 mittee on Appropriations of the House of Representatives and the Com-
 2 mittee on Commerce, Science, and Transportation and the Committee on
 3 Appropriations of the Senate the projected aggregate contingent liability of
 4 the Government under termination provisions of any contract authorized in
 5 this section through the next fiscal year. The authority of the Administra-
 6 tion to enter into and to maintain the contract authorized hereunder shall
 7 remain in effect unless repealed by legislation enacted by Congress.

8 **§ 30304. Award of contracts to small businesses and dis-**
 9 **advantaged individuals**

10 The Administrator shall annually establish a goal of at least 8 percent
 11 of the total value of prime and subcontracts awarded in support of author-
 12 ized programs, including the space station by the time operational status
 13 is obtained, which funds will be made available to small business concerns
 14 or other organizations owned or controlled by socially and economically dis-
 15 advantaged individuals (within the meaning of paragraphs (5) and (6) of
 16 section 8(a) of the Small Business Act (15 U.S.C. 637(a))), including His-
 17 torically Black Colleges and Universities that are part B institutions (as de-
 18 fined in section 322(2) of the Higher Education Act of 1965 (20 U.S.C.
 19 1061(2))), Hispanic-serving institutions (as defined in section 502(a)(5) of
 20 that Act (20 U.S.C. 1101a(a)(5))), Tribal Colleges or Universities (as de-
 21 fined in section 316(b)(3) of that Act (20 U.S.C. 1059c(b)(3))), Alaska Na-
 22 tive-serving institutions (as defined in section 317(b)(2) of that Act (20
 23 U.S.C. 1059d(b)(2))), Native Hawaiian-serving institutions (as defined in
 24 section 317(b)(4) of that Act (20 U.S.C. 1059d(b)(4))), and minority edu-
 25 cational institutions (as defined by the Secretary of Education pursuant to
 26 the General Education Provisions Act (20 U.S.C. 1221 et seq.)).

27 **§ 30305. Outreach program**

28 (a) ESTABLISHMENT.—The Administration shall competitively select an
 29 organization to partner with Administration centers, aerospace contractors,
 30 and academic institutions to carry out a program to help promote the com-
 31 petitiveness of small, minority-owned, and women-owned businesses in com-
 32 munities across the United States through enhanced insight into the tech-
 33 nologies of the Administration’s space and aeronautics programs. The pro-
 34 gram shall support the mission of the Administration’s Innovative Partner-
 35 ships Program with its emphasis on joint partnerships with industry, aca-
 36 demia, government agencies, and national laboratories.

37 (b) PROGRAM STRUCTURE.—In carrying out the program described in
 38 subsection (a), the organization shall support the mission of the Administra-
 39 tion’s Innovative Partnerships Program by undertaking the following activi-
 40 ties:

1 (1) FACILITATING ENHANCED INSIGHT.—Facilitating the enhanced
2 insight of the private sector into the Administration’s technologies in
3 order to increase the competitiveness of the private sector in producing
4 viable commercial products.

5 (2) CREATING NETWORK.—Creating a network of academic institu-
6 tions, aerospace contractors, and Administration centers that will com-
7 mit to donating appropriate technical assistance to small businesses,
8 giving preference to socially and economically disadvantaged small busi-
9 ness concerns, small business concerns owned and controlled by service-
10 disabled veterans, and HUBZone small business concerns. This para-
11 graph shall not apply to any contracting actions entered into or taken
12 by the Administration.

13 (3) CREATING NETWORK OF ECONOMIC DEVELOPMENT ORGANIZA-
14 TIONS.—Creating a network of economic development organizations to
15 increase the awareness and enhance the effectiveness of the program
16 nationwide.

17 (e) REPORT.—Not later than one year after October 15, 2008, and annu-
18 ally thereafter, the Administrator shall submit a report to the Committee
19 on Science and Technology of the House of Representatives and the Com-
20 mittee on Commerce, Science, and Transportation of the Senate describing
21 the efforts and accomplishments of the program established under sub-
22 section (a) in support of the Administration’s Innovative Partnerships Pro-
23 gram. As part of the report, the Administrator shall provide—

24 (1) data on the number of small businesses receiving assistance, jobs
25 created and retained, and volunteer hours donated by the Administra-
26 tion, contractors, and academic institutions nationwide;

27 (2) an estimate of the total dollar value of the economic impact made
28 by small businesses that received technical assistance through the pro-
29 gram; and

30 (3) an accounting of the use of funds appropriated for the program.

31 **§ 30306. Small business contracting**

32 (a) PLAN.—In consultation with the Small Business Administration, the
33 Administrator shall develop a plan to maximize the number and amount of
34 contracts awarded to small business concerns (within the meaning given
35 that term in section 3 of the Small Business Act (15 U.S.C. 632)) and to
36 meet established contracting goals for such concerns.

37 (b) PRIORITY.—The Administrator shall establish as a priority meeting
38 the contracting goals developed in conjunction with the Small Business Ad-
39 ministration to maximize the amount of prime contracts, as measured in
40 dollars, awarded in each fiscal year by the Administration to small business

1 concerns (within the meaning given that term in section 3 of the Small
2 Business Act (15 U.S.C. 632)).

3 **§ 30307. Requirement for independent cost analysis**

4 (a) DEFINITION OF IMPLEMENTATION.—In this section, the term “imple-
5 mentation” means all activity in the life cycle of a project after preliminary
6 design, independent assessment of the preliminary design, and approval to
7 proceed into implementation, including critical design, development, certifi-
8 cation, launch, operations, disposal of assets, and, for technology programs,
9 development, testing, analysis, and communication of the results.

10 (b) REQUIREMENT.—Before any funds may be obligated for implementa-
11 tion of a project that is projected to cost more than \$250,000,000 in total
12 project costs, the Administrator shall conduct and consider an independent
13 life-cycle cost analysis of the project and shall report the results to Con-
14 gress. In developing cost accounting and reporting standards for carrying
15 out this section, the Administrator shall, to the extent practicable and con-
16 sistent with other laws, solicit the advice of experts outside of the Adminis-
17 tration.

18 **§ 30308. Cost effectiveness calculations**

19 (a) DEFINITIONS.—In this section:

20 (1) COMMERCIAL PROVIDER.—The term “commercial provider”
21 means any person providing space transportation services or other
22 space-related activities, the primary control of which is held by persons
23 other than a Federal, State, local, or foreign government.

24 (2) STATE.—The term “State” means each of the several States of
25 the United States, the District of Columbia, the Commonwealth of
26 Puerto Rico, the Virgin Islands, Guam, American Samoa, the Common-
27 wealth of the Northern Mariana Islands, and any other commonwealth,
28 territory, or possession of the United States.

29 (b) IN GENERAL.—Except as otherwise required by law, in calculating the
30 cost effectiveness of the cost of the Administration engaging in an activity
31 as compared to a commercial provider, the Administrator shall compare the
32 cost of the Administration engaging in the activity using full cost account-
33 ing principles with the price the commercial provider will charge for such
34 activity.

35 **§ 30309. Use of abandoned and underutilized buildings,
36 grounds, and facilities**

37 (a) DEFINITION OF DEPRESSED COMMUNITIES.—In this section, the
38 term “depressed communities” means rural and urban communities that are
39 relatively depressed, in terms of age of housing, extent of poverty, growth
40 of per capita income, extent of unemployment, job lag, or surplus labor.

1 (b) IN GENERAL.—In any case in which the Administrator considers the
 2 purchase, lease, or expansion of a facility to meet requirements of the Ad-
 3 ministration, the Administrator shall consider whether those requirements
 4 could be met by the use of one of the following:

5 (1) Abandoned or underutilized buildings, grounds, and facilities in
 6 depressed communities that can be converted to Administration usage
 7 at a reasonable cost, as determined by the Administrator.

8 (2) Any military installation that is closed or being closed, or any
 9 facility at such an installation.

10 (3) Any other facility or part of a facility that the Administrator de-
 11 termines to be—

12 (A) owned or leased by the United States for the use of another
 13 agency of the Federal Government; and

14 (B) considered by the head of the agency involved to be—

15 (i) excess to the needs of that agency; or

16 (ii) underutilized by that agency.

17 **§ 30310. Exception to alternative fuel procurement require-**
 18 **ment**

19 Section 526(a) of the Energy Independence and Security Act of 2007 (42
 20 U.S.C. 17142(a)) does not prohibit the Administration from entering into
 21 a contract to purchase a generally available fuel that is not an alternative
 22 or synthetic fuel or predominantly produced from a nonconventional petro-
 23 leum source, if—

24 (1) the contract does not specifically require the contractor to pro-
 25 vide an alternative or synthetic fuel or fuel from a nonconventional pe-
 26 troleum source;

27 (2) the purpose of the contract is not to obtain an alternative or syn-
 28 thetic fuel or fuel from a nonconventional petroleum source; and

29 (3) the contract does not provide incentives for a refinery upgrade
 30 or expansion to allow a refinery to use or increase its use of fuel from
 31 a nonconventional petroleum source.

32 **CHAPTER 305—MANAGEMENT AND REVIEW**

Sec.

30501. Lessons learned and best practices.

30502. Whistleblower protection.

30503. Performance assessments.

30504. Assessment of science mission extensions.

33 **§ 30501. Lessons learned and best practices**

34 (a) IN GENERAL.—The Administrator shall transmit to the Committee on
 35 Science and Technology of the House of Representatives and the Committee
 36 on Commerce, Science, and Transportation of the Senate an implementation
 37 plan describing the Administration’s approach for obtaining, implementing,

1 and sharing lessons learned and best practices for its major programs and
2 projects not later than 180 days after December 30, 2005. The implementa-
3 tion plan shall be updated and maintained to ensure that it is current and
4 consistent with the burgeoning culture of learning and safety that is emerg-
5 ing at the Administration.

6 (b) REQUIRED CONTENT.—The implementation plan shall contain at a
7 minimum the lessons learned and best practices requirements for the Ad-
8 ministration, the organizations or positions responsible for enforcement of
9 the requirements, the reporting structure, and the objective performance
10 measures indicating the effectiveness of the activity.

11 (c) INCENTIVES.—The Administrator shall provide incentives to encour-
12 age sharing and implementation of lessons learned and best practices by em-
13 ployees, projects, and programs, as well as penalties for programs and
14 projects that are determined not to have demonstrated use of those re-
15 sources.

16 **§ 30502. Whistleblower protection**

17 (a) IN GENERAL.—Not later than 1 year after December 30, 2005, the
18 Administrator shall transmit to the Committee on Science and Technology
19 of the House of Representatives and the Committee on Commerce, Science,
20 and Transportation of the Senate a plan describing steps to be taken by
21 the Administration to protect from retaliation Administration employees
22 who raise concerns about substantial and specific dangers to public health
23 and safety or about substantial and specific factors that could threaten the
24 success of a mission. The plan shall be designed to ensure that Administra-
25 tion employees have the full protection required by law. The Administrator
26 shall implement the plan not more than 1 year after its transmittal.

27 (b) GOAL.—The Administrator shall ensure that the plan describes a sys-
28 tem that will protect employees who wish to raise or have raised concerns
29 described in subsection (a).

30 (c) PLAN.—At a minimum, the plan shall include, consistent with Federal
31 law—

32 (1) a reporting structure that ensures that the officials who are the
33 subject of a whistleblower’s complaint will not learn the identity of the
34 whistleblower;

35 (2) a single point to which all complaints can be made without fear
36 of retribution;

37 (3) procedures to enable the whistleblower to track the status of the
38 case;

39 (4) activities to educate employees about their rights as whistle-
40 blowers and how they are protected by law;

1 (5) activities to educate employees about their obligations to report
2 concerns and their accountability before and after receiving the results
3 of the investigations into their concerns; and

4 (6) activities to educate all appropriate Administration Human Re-
5 sources professionals, and all Administration managers and super-
6 visors, regarding personnel laws, rules, and regulations.

7 (d) REPORT.—Not later than February 15 of each year beginning Feb-
8 ruary 15, 2007, the Administrator shall transmit a report to the Committee
9 on Science and Technology of the House of Representatives and the Com-
10 mittee on Commerce, Science, and Transportation of the Senate on the con-
11 cerns described in subsection (a) that were raised during the previous fiscal
12 year. At a minimum, the report shall provide—

13 (1) the number of concerns that were raised, divided into the cat-
14 egories of safety and health, mission assurance, and mismanagement,
15 and the disposition of those concerns, including whether any employee
16 was disciplined as a result of a concern having been raised; and

17 (2) any recommendations for reforms to further prevent retribution
18 against employees who raise concerns.

19 **§ 30503. Performance assessments**

20 (a) IN GENERAL.—The performance of each division in the Science direc-
21 torate of the Administration shall be reviewed and assessed by the National
22 Academy of Sciences at 5-year intervals.

23 (b) TIMING.—Beginning with the first fiscal year following December 30,
24 2005, the Administrator shall select at least one division for review under
25 this section. The Administrator shall select divisions so that all disciplines
26 will have received their first review within 6 fiscal years of December 30,
27 2005.

28 (c) REPORTS.—Not later than March 1 of each year, beginning with the
29 first fiscal year after December 30, 2005, the Administrator shall transmit
30 a report to the Committee on Science and Technology of the House of Rep-
31 resentatives and the Committee on Commerce, Science, and Transportation
32 of the Senate—

33 (1) setting forth in detail the results of any external review under
34 subsection (a);

35 (2) setting forth in detail actions taken by the Administration in re-
36 sponse to any external review; and

37 (3) including a summary of findings and recommendations from any
38 other relevant external reviews of the Administration's science mission
39 priorities and programs.

1 **§ 30504. Assessment of science mission extensions**

2 (a) ASSESSMENT.—The Administrator shall carry out biennial reviews
3 within each of the Science divisions to assess the cost and benefits of ex-
4 tending the date of the termination of data collection for those missions that
5 have exceeded their planned mission lifetime.

6 (b) CONSULTATION AND CONSIDERATION OF POTENTIAL BENEFITS OF
7 INSTRUMENTS ON MISSIONS.—For those missions that have an operational
8 component, the National Oceanic and Atmospheric Administration or any
9 other affected agency shall be consulted and the potential benefits of instru-
10 ments on missions that are beyond their planned mission lifetime taken into
11 account.

12 **CHAPTER 307—INTERNATIONAL COOPERATION AND**
13 **COMPETITION**

Sec.

30701. Competitiveness and international cooperation.

30702. Foreign contract limitation.

30703. Foreign launch vehicles.

30704. Offshore performance of contracts for the procurement of goods and services.

14 **§ 30701. Competitiveness and international cooperation**

15 (a) LIMITATION.—

16 (1) SOLICITATION OF COMMENT.—As part of the evaluation of the
17 costs and benefits of entering into an obligation to conduct a space
18 mission in which a foreign entity will participate as a supplier of the
19 spacecraft, spacecraft system, or launch system, the Administrator
20 shall solicit comment on the potential impact of such participation
21 through notice published in Commerce Business Daily at least 45 days
22 before entering into such an obligation.

23 (2) AGREEMENTS WITH PEOPLE’S REPUBLIC OF CHINA.—The Ad-
24 ministrator shall certify to Congress at least 15 days in advance of any
25 cooperative agreement with the People’s Republic of China, or any
26 company owned by the People’s Republic of China or incorporated
27 under the laws of the People’s Republic of China, involving spacecraft,
28 spacecraft systems, launch systems, or scientific or technical informa-
29 tion, that—

30 (A) the agreement is not detrimental to the United States space
31 launch industry; and

32 (B) the agreement, including any indirect technical benefit that
33 could be derived from the agreement, will not improve the missile
34 or space launch capabilities of the People’s Republic of China.

35 (3) ANNUAL AUDIT.—The Inspector General of the Administration,
36 in consultation with appropriate agencies, shall conduct an annual
37 audit of the policies and procedures of the Administration with respect

1 to the export of technologies and the transfer of scientific and technical
2 information, to assess the extent to which the Administration is carry-
3 ing out its activities in compliance with Federal export control laws
4 and with paragraph (2).

5 (b) NATIONAL INTERESTS.—

6 (1) DEFINITION OF UNITED STATES COMMERCIAL PROVIDER.—In
7 this subsection, the term “United States commercial provider” means
8 a commercial provider (as defined in section 30308(a) of this title), or-
9 ganized under the laws of the United States or of a State (as defined
10 in section 30308(a) of this title), which is—

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

12 (B) a subsidiary of a foreign company and the Secretary of

13 Commerce finds that—

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

16 (I) investments in the United States in long-term re-
17 search, development, and manufacturing (including the
18 manufacture of major components and subassemblies);
19 and

20 (II) significant contributions to employment in the
21 United States; and

22 (ii) the country or countries in which such foreign company
23 is incorporated or organized, and, if appropriate, in which it
24 principally conducts its business, affords reciprocal treatment
25 to companies described in subparagraph (A) comparable to
26 that afforded to such foreign company’s subsidiary in the
27 United States, as evidenced by—

28 (I) providing comparable opportunities for companies
29 described in subparagraph (A) to participate in Govern-
30 ment sponsored research and development similar to that
31 authorized under this section, section 30307, 30308,
32 30309, or 30702 of this title, or the National Aero-
33 nautics and Space Administration Authorization Act of
34 2000 (Public Law 106–391, 114 Stat. 1577);

35 (II) providing no barriers to companies described in
36 subparagraph (A) with respect to local investment oppor-
37 tunities that are not provided to foreign companies in the
38 United States; and

39 (III) providing adequate and effective protection for
40 the intellectual property rights of companies described in
41 subparagraph (A).

1 (2) IN GENERAL.—Before entering into an obligation described in
2 subsection (a), the Administrator shall consider the national interests
3 of the United States described in paragraph (3) of this subsection.

4 (3) DESCRIPTION OF NATIONAL INTERESTS.—International coopera-
5 tion in space exploration and science activities most effectively serves
6 the United States national interest when it—

7 (A)(i) reduces the cost of undertaking missions the United
8 States Government would pursue unilaterally;

9 (ii) enables the United States to pursue missions that it could
10 not otherwise afford to pursue unilaterally; or

11 (iii) enhances United States capabilities to use and develop
12 space for the benefit of United States citizens;

13 (B) is undertaken in a manner that is sensitive to the desire
14 of United States commercial providers to develop or explore space
15 commercially;

16 (C) is consistent with the need for Federal agencies to use space
17 to complete their missions; and

18 (D) is carried out in a manner consistent with United States
19 export control laws.

20 **§ 30702. Foreign contract limitation**

21 The Administration shall not enter into any agreement or contract with
22 a foreign government that grants the foreign government the right to re-
23 cover profit in the event that the agreement or contract is terminated.

24 **§ 30703. Foreign launch vehicles**

25 (a) ACCORD WITH SPACE TRANSPORTATION POLICY.—The Administra-
26 tion shall not launch a payload on a foreign launch vehicle except in accord-
27 ance with the Space Transportation Policy announced by the President on
28 December 21, 2004. This subsection shall not be construed to prevent the
29 President from waiving the Space Transportation Policy.

30 (b) INTERAGENCY COORDINATION.—The Administration shall not launch
31 a payload on a foreign launch vehicle unless the Administration commenced
32 the interagency coordination required by the Space Transportation Policy
33 announced by the President on December 21, 2004, at least 90 days before
34 entering into a development contract for the payload.

35 (c) APPLICATION.—This section shall not apply to any payload for which
36 development has begun prior to December 30, 2005, including the James
37 Webb Space Telescope.

38 **§ 30704. Offshore performance of contracts for the procure-**
39 **ment of goods and services**

40 The Administrator shall submit to Congress, not later than 120 days
41 after the end of each fiscal year, a report on the contracts and subcontracts

1 performed overseas and the amount of purchases directly or indirectly by
 2 the Administration from foreign entities in that fiscal year. The report shall
 3 separately indicate—

4 (1) the contracts and subcontracts and their dollar values for which
 5 the Administrator determines that essential goods or services under the
 6 contract are available only from a source outside the United States;
 7 and

8 (2) the items and their dollar values for which the Buy American
 9 Act (41 U.S.C. 10a et seq.) was waived pursuant to obligations of the
 10 United States under international agreements.

11 **CHAPTER 309—AWARDS**

Sec.

30901. Congressional Space Medal of Honor.

30902. Charles “Pete” Conrad Astronomy Awards.

12 **§ 30901. Congressional Space Medal of Honor**

13 (a) **AUTHORITY TO AWARD.**—The President may award, and present in
 14 the name of Congress, a medal of appropriate design, which shall be known
 15 as the Congressional Space Medal of Honor, to any astronaut who in the
 16 performance of the astronaut’s duties has distinguished himself or herself
 17 by exceptionally meritorious efforts and contributions to the welfare of the
 18 Nation and of humankind.

19 (b) **APPROPRIATIONS.**—There is authorized to be appropriated from time
 20 to time such sums of money as may be necessary to carry out the purposes
 21 of this section.

22 **§ 30902. Charles “Pete” Conrad Astronomy Awards**

23 (a) **SHORT TITLE.**—This section may be cited as the “Charles ‘Pete’
 24 Conrad Astronomy Awards Act”.

25 (b) **DEFINITIONS.**—In this section:

26 (1) **AMATEUR ASTRONOMER.**—The term “amateur astronomer”
 27 means an individual whose employer does not provide any funding, pay-
 28 ment, or compensation to the individual for the observation of asteroids
 29 and other celestial bodies, and does not include any individual employed
 30 as a professional astronomer.

31 (2) **MINOR PLANET CENTER.**—The term “Minor Planet Center”
 32 means the Minor Planet Center of the Smithsonian Astrophysical Ob-
 33 servatory.

34 (3) **NEAR-EARTH ASTEROID.**—The term “near-Earth asteroid”
 35 means an asteroid with a perihelion distance of less than 1.3 Astro-
 36 nomical Units from the Sun.

37 (4) **PROGRAM.**—The term “Program” means the Charles “Pete”
 38 Conrad Astronomy Awards Program established under subsection (c).

1 (c) CHARLES “PETE” CONRAD ASTRONOMY AWARDS PROGRAM.—

2 (1) IN GENERAL.—The Administrator shall establish the Charles
3 “Pete” Conrad Astronomy Awards Program.

4 (2) AWARDS.—The Administrator shall make awards under the Pro-
5 gram based on the recommendations of the Minor Planet Center.

6 (3) AWARD CATEGORIES.—The Administrator shall make one annual
7 award, unless there are no eligible discoveries or contributions, for each
8 of the following categories:

9 (A) DISCOVERY OF BRIGHTEST NEAR-EARTH ASTEROID.—The
10 amateur astronomer or group of amateur astronomers who in the
11 preceding calendar year discovered the intrinsically brightest near-
12 Earth asteroid among the near-Earth asteroids that were discov-
13 ered during that year by amateur astronomers or groups of ama-
14 teur astronomers.

15 (B) GREATEST CONTRIBUTION TO CATALOGUING NEAR-EARTH
16 ASTEROIDS.—The amateur astronomer or group of amateur as-
17 tronomers who made the greatest contribution to the Minor Planet
18 Center’s mission of cataloguing near-Earth asteroids during the
19 preceding year.

20 (4) AWARD AMOUNT.—An award under the Program shall be in the
21 amount of \$3,000.

22 (5) GUIDELINES.—

23 (A) CITIZEN OR PERMANENT RESIDENT.—No individual who is
24 not a citizen or permanent resident of the United States at the
25 time of the individual’s discovery or contribution may receive an
26 award under this section.

27 (B) FINALITY.—The decisions of the Administrator in making
28 awards under this section are final.

29 **CHAPTER 311—SAFETY**

Sec.

31101. Aerospace Safety Advisory Panel.

31102. Drug and alcohol testing.

30 **§ 31101. Aerospace Safety Advisory Panel**

31 (a) ESTABLISHMENT AND MEMBERS.—There is established an Aerospace
32 Safety Advisory Panel consisting of a maximum of 9 members who shall be
33 appointed by the Administrator for terms of 6 years each. Not more than
34 4 such members shall be chosen from among the officers and employees of
35 the Administration.

36 (b) CHAIRMAN.—One member shall be designated by the Panel as its
37 Chairman.

38 (c) DUTIES.—The Panel shall—

1 (1) review safety studies and operations plans referred to it, includ-
 2 ing evaluating the Administration’s compliance with the return-to-flight
 3 and continue-to-fly recommendations of the Columbia Accident Inves-
 4 tigation Board, and make reports thereon;

5 (2) advise the Administrator and Congress with respect to—

6 (A) the hazards of proposed or existing facilities and proposed
 7 operations;

8 (B) the adequacy of proposed or existing safety standards; and

9 (C) management and culture related to safety; and

10 (3) perform such other duties as the Administrator may request.

11 (d) COMPENSATION AND EXPENSES.—

12 (1) COMPENSATION.—

13 (A) FEDERAL OFFICERS AND EMPLOYEES.—A member of the
 14 Panel who is an officer or employee of the Federal Government
 15 shall receive no compensation for the member’s services as such.

16 (B) MEMBERS APPOINTED FROM OUTSIDE THE FEDERAL GOV-
 17 ERNMENT.—A member of the Panel appointed from outside the
 18 Federal Government shall receive compensation, at a rate not to
 19 exceed the per diem rate equivalent to the maximum rate payable
 20 under section 5376 of title 5, for each day the member is engaged
 21 in the actual performance of duties vested in the Panel.

22 (2) EXPENSES.—A member of the Panel shall be allowed necessary
 23 travel expenses (or in the alternative, mileage for use of a privately
 24 owned vehicle and a per diem in lieu of subsistence not to exceed the
 25 rate and amount prescribed in sections 5702 and 5704 of title 5), and
 26 other necessary expenses incurred by the member in the performance
 27 of duties vested in the Panel, without regard to the provisions of sub-
 28 chapter I of chapter 57 of title 5, the Standardized Government Travel
 29 Regulations, or section 5731 of title 5.

30 (e) ANNUAL REPORT.—The Panel shall submit an annual report to the
 31 Administrator and to Congress. In the first annual report submitted after
 32 December 30, 2005, the Panel shall include an evaluation of the Adminis-
 33 tration’s management and culture related to safety. Each annual report
 34 shall include an evaluation of the Administration’s compliance with the rec-
 35 ommendations of the Columbia Accident Investigation Board through retire-
 36 ment of the space shuttle.

37 **§ 31102. Drug and alcohol testing**

38 (a) DEFINITION OF CONTROLLED SUBSTANCE.—In this section, the term
 39 “controlled substance” means any substance under section 102(6) of the
 40 Controlled Substances Act (21 U.S.C. 802(6)) specified by the Adminis-
 41 trator.

1 (b) TESTING PROGRAM.—

2 (1) EMPLOYEES OF ADMINISTRATION.—The Administrator shall es-
3 tablish a program applicable to employees of the Administration whose
4 duties include responsibility for safety-sensitive, security, or national
5 security functions. Such program shall provide for preemployment, rea-
6 sonable suspicion, random, and post-accident testing for use, in viola-
7 tion of applicable law or Federal regulation, of alcohol or a controlled
8 substance. The Administrator may also prescribe regulations, as the
9 Administrator considers appropriate in the interest of safety, security,
10 and national security, for the conduct of periodic recurring testing of
11 such employees for such use in violation of applicable law or Federal
12 regulation.

13 (2) EMPLOYEES OF CONTRACTORS.—The Administrator shall, in the
14 interest of safety, security, and national security, prescribe regulations.
15 Such regulations shall establish a program that requires Administration
16 contractors to conduct preemployment, reasonable suspicion, random,
17 and post-accident testing of contractor employees responsible for safe-
18 ty-sensitive, security, or national security functions (as determined by
19 the Administrator) for use, in violation of applicable law or Federal
20 regulation, of alcohol or a controlled substance. The Administrator may
21 also prescribe regulations, as the Administrator considers appropriate
22 in the interest of safety, security, and national security, for the conduct
23 of periodic recurring testing of such employees for such use in violation
24 of applicable law or Federal regulation.

25 (3) SUSPENSION, DISQUALIFICATION, OR DISMISSAL.—In prescribing
26 regulations under the programs required by this subsection, the Admin-
27 istrator shall require, as the Administrator considers appropriate, the
28 suspension, disqualification, or dismissal of any employee to which
29 paragraph (1) or (2) applies, in accordance with the provisions of this
30 section, in any instance where a test conducted and confirmed under
31 this section indicates that such employee has used, in violation of appli-
32 cable law or Federal regulation, alcohol or a controlled substance.

33 (c) PROHIBITION ON SERVICE.—

34 (1) PROHIBITION UNLESS PROGRAM OF REHABILITATION COM-
35 PLETED.—No individual who is determined by the Administrator under
36 this section to have used, in violation of applicable law or Federal regu-
37 lation, alcohol or a controlled substance after December 9, 1991, shall
38 serve as an Administration employee with responsibility for safety-sen-
39 sitive, security, or national security functions (as determined by the
40 Administrator), or as an Administration contractor employee with such

1 responsibility, unless such individual has completed a program of reha-
2 bilitation described in subsection (d).

3 (2) UNCONDITIONAL PROHIBITION.—Any such individual determined
4 by the Administrator under this section to have used, in violation of
5 applicable law or Federal regulation, alcohol or a controlled substance
6 after December 9, 1991, shall not be permitted to perform the duties
7 that the individual performed prior to the date of the determination,
8 if the individual—

9 (A) engaged in such use while on duty;

10 (B) prior to such use had undertaken or completed a rehabilita-
11 tion program described in subsection (d);

12 (C) following such determination refuses to undertake such a re-
13 habilitation program; or

14 (D) following such determination fails to complete such a reha-
15 bilitation program.

16 (d) PROGRAM FOR REHABILITATION.—

17 (1) REGULATIONS AND AVAILABILITY OF PROGRAM FOR CON-
18 TRACTOR EMPLOYEES.—The Administrator shall prescribe regulations
19 setting forth requirements for rehabilitation programs which at a min-
20 imum provide for the identification and opportunity for treatment of
21 employees referred to in subsection (b) in need of assistance in resolv-
22 ing problems with the use, in violation of applicable law or Federal reg-
23 ulation, of alcohol or a controlled substance. Each contractor is encour-
24 aged to make such a program available to all of its employees in addi-
25 tion to those employees referred to in subsection (b)(2). The Adminis-
26 trator shall determine the circumstances under which such employees
27 shall be required to participate in such a program. Nothing in this sub-
28 section shall preclude any Administration contractor from establishing
29 a program under this subsection in cooperation with any other such
30 contractor.

31 (2) ESTABLISHMENT AND MAINTENANCE OF PROGRAM FOR ADMINIS-
32 TRATION EMPLOYEES.—The Administrator shall establish and maintain
33 a rehabilitation program which at a minimum provides for the identi-
34 fication and opportunity for treatment of those employees of the Ad-
35 ministration whose duties include responsibility for safety-sensitive, se-
36 curity, or national security functions who are in need of assistance in
37 resolving problems with the use of alcohol or controlled substances.

38 (e) PROCEDURES FOR TESTING.—In establishing the programs required
39 under subsection (b), the Administrator shall develop requirements which
40 shall—

1 (1) promote, to the maximum extent practicable, individual privacy
2 in the collection of specimen samples;

3 (2) with respect to laboratories and testing procedures for controlled
4 substances, incorporate the Department of Health and Human Services
5 scientific and technical guidelines dated April 11, 1988, and any subse-
6 quent amendments thereto, including mandatory guidelines which—

7 (A) establish comprehensive standards for all aspects of labora-
8 tory controlled substances testing and laboratory procedures to be
9 applied in carrying out this section, including standards which re-
10 quire the use of the best available technology for ensuring the full
11 reliability and accuracy of controlled substances tests and strict
12 procedures governing the chain of custody of specimen samples
13 collected for controlled substances testing;

14 (B) establish the minimum list of controlled substances for
15 which individuals may be tested; and

16 (C) establish appropriate standards and procedures for periodic
17 review of laboratories and criteria for certification and revocation
18 of certification of laboratories to perform controlled substances
19 testing in carrying out this section;

20 (3) require that all laboratories involved in the controlled substances
21 testing of any individual under this section shall have the capability
22 and facility, at such laboratory, of performing screening and confirma-
23 tion tests;

24 (4) provide that all tests which indicate the use, in violation of appli-
25 cable law or Federal regulation, of alcohol or a controlled substance by
26 any individual shall be confirmed by a scientifically recognized method
27 of testing capable of providing quantitative data regarding alcohol or
28 a controlled substance;

29 (5) provide that each specimen sample be subdivided, secured, and
30 labelled in the presence of the tested individual and that a portion
31 thereof be retained in a secure manner to prevent the possibility of
32 tampering, so that in the event the individual's confirmation test re-
33 sults are positive the individual has an opportunity to have the retained
34 portion assayed by a confirmation test done independently at a second
35 certified laboratory if the individual requests the independent test with-
36 in 3 days after being advised of the results of the initial confirmation
37 test;

38 (6) ensure appropriate safeguards for testing to detect and quantify
39 alcohol in breath and body fluid samples, including urine and blood,
40 through the development of regulations as may be necessary and in
41 consultation with the Department of Health and Human Services;

1 (7) provide for the confidentiality of test results and medical infor-
2 mation of employees; and

3 (8) ensure that employees are selected for tests by nondiscriminatory
4 and impartial methods, so that no employee is harassed by being treat-
5 ed differently from other employees in similar circumstances.

6 (f) EFFECT ON OTHER LAWS AND REGULATIONS.—

7 (1) CONSISTENCY WITH FEDERAL REGULATION.—No State or local
8 government shall adopt or have in effect any law, rule, regulation, ordi-
9 nance, standard, or order that is inconsistent with the regulations pro-
10 mulgated under this section.

11 (2) CONTINUANCE OF REGULATIONS ISSUED BEFORE DECEMBER 9,
12 1991.—Nothing in this section shall be construed to restrict the discre-
13 tion of the Administrator to continue in force, amend, or further sup-
14 plement any regulations issued before December 9, 1991, that govern
15 the use of alcohol and controlled substances by Administration employ-
16 ees with responsibility for safety-sensitive, security, and national secu-
17 rity functions (as determined by the Administrator), or by Administra-
18 tion contractor employees with such responsibility.

19 **CHAPTER 313—HEALTHCARE**

Sec.

31301. Healthcare program.

31302. Astronaut healthcare survey.

20 **§ 31301. Healthcare program**

21 The Administrator shall develop a plan to better understand the longitu-
22 dinal health effects of space flight on humans. In the development of the
23 plan, the Administrator shall consider the need for the establishment of a
24 lifetime healthcare program for Administration astronauts and their families
25 or other methods to obtain needed health data from astronauts and retired
26 astronauts.

27 **§ 31302. Astronaut healthcare survey**

28 (a) SURVEY.—The Administrator shall administer an anonymous survey
29 of astronauts and flight surgeons to evaluate communication, relationships,
30 and the effectiveness of policies. The survey questions and the analysis of
31 results shall be evaluated by experts independent of the Administration. The
32 survey shall be administered on at least a biennial basis.

33 (b) REPORT.—The Administrator shall transmit a report of the results
34 of the survey to Congress not later than 90 days following completion of
35 the survey.

36 **CHAPTER 315—MISCELLANEOUS**

Sec.

- 31501. Orbital debris.
- 31502. Maintenance of facilities.
- 31503. Laboratory productivity.
- 31504. Cooperative unmanned aerial vehicle activities.
- 31505. Development of enhanced-use lease policy.

1 **§ 31501. Orbital debris**

2 The Administrator, in conjunction with the heads of other Federal agen-
3 cies, shall take steps to develop or acquire technologies that will enable the
4 Administration to decrease the risks associated with orbital debris.

5 **§ 31502. Maintenance of facilities**

6 In order to sustain healthy Centers that are capable of carrying out the
7 Administration’s missions, the Administrator shall ensure that adequate
8 maintenance and upgrading of those Center facilities is performed on a reg-
9 ular basis.

10 **§ 31503. Laboratory productivity**

11 The Administration’s laboratories are a critical component of the Admin-
12 istration’s research capabilities, and the Administrator shall ensure that
13 those laboratories remain productive.

14 **§ 31504. Cooperative unmanned aerial vehicle activities**

15 The Administrator, in cooperation with the Administrator of the National
16 Oceanic and Atmospheric Administration and in coordination with other
17 agencies that have existing civil capabilities, shall continue to utilize the ca-
18 pabilities of unmanned aerial vehicles as appropriate in support of Adminis-
19 tration and interagency cooperative missions. The Administrator may enter
20 into cooperative agreements with universities with unmanned aerial vehicle
21 programs and related assets to conduct collaborative research and develop-
22 ment activities, including development of appropriate applications of small
23 unmanned aerial vehicle technologies and systems in remote areas.

24 **§ 31505. Development of enhanced-use lease policy**

25 (a) IN GENERAL.—The Administrator shall develop an agency-wide en-
26 hanced-use lease policy that—

27 (1) is based upon sound business practices and lessons learned from
28 the demonstration centers; and

29 (2) establishes controls and procedures to ensure accountability and
30 protect the interests of the Government.

31 (b) CONTENTS.—The policy required by subsection (a) shall include the
32 following:

33 (1) CRITERIA FOR DETERMINING ECONOMIC VALUE.—Criteria for
34 determining whether enhanced-use lease provides better economic value
35 to the Government than other options, such as—

36 (A) Federal financing through appropriations; or

37 (B) sale of the property.

1 (2) SECURITY AND ACCESS.—Requirement for the identification of
2 proposed physical and procedural changes needed to ensure security
3 and restrict access to specified areas, coordination of proposed changes
4 with existing site tenants, and development of estimated costs of such
5 changes.

6 (3) MEASURES OF EFFECTIVENESS.—Measures of effectiveness for
7 the enhanced-use lease program.

8 (4) ACCOUNTING CONTROLS.—Accounting controls and procedures to
9 ensure accountability, such as an audit trail and documentation to
10 readily support financial transactions.

11 **Subtitle IV—Aeronautics and Space** 12 **Research and Education**

13 **CHAPTER 401—AERONAUTICS**

SUBCHAPTER I—GENERAL

Sec.

- 40101. Definition of institution of higher education.
- 40102. Governmental interest in aeronautics research and development.
- 40103. Cooperation with other agencies on aeronautics activities.
- 40104. Cooperation among Mission Directorates.

SUBCHAPTER II—HIGH PRIORITY AERONAUTICS RESEARCH AND DEVELOPMENT PROGRAMS

- 40111. Fundamental research program.
- 40112. Research and technology programs.
- 40113. Airspace systems research.
- 40114. Aviation safety and security research.
- 40115. Aviation weather research.
- 40116. University-based Centers for Research on Aviation Training.

SUBCHAPTER III—SCHOLARSHIPS

- 40131. Aeronautics scholarships.

SUBCHAPTER IV—DATA REQUESTS

- 40141. Aviation data requests.

14 SUBCHAPTER I—GENERAL

15 **§ 40101. Definition of institution of higher education**

16 In this chapter, the term “institution of higher education” has the mean-
17 ing given the term by section 101 of the Higher Education Act of 1965 (20
18 U.S.C. 1001).

19 **§ 40102. Governmental interest in aeronautics research and** 20 **development**

21 Congress reaffirms the national commitment to aeronautics research
22 made in chapter 201 of this title. Aeronautics research and development re-
23 mains a core mission of the Administration. The Administration is the lead
24 agency for civil aeronautics research. Further, the government of the United
25 States shall promote aeronautics research and development that will expand
26 the capacity, ensure the safety, and increase the efficiency of the Nation’s

1 air transportation system, promote the security of the Nation, protect the
2 environment, and retain the leadership of the United States in global avia-
3 tion.

4 **§ 40103. Cooperation with other agencies on aeronautics ac-**
5 **tivities**

6 The Administrator shall coordinate, as appropriate, the Administration's
7 aeronautics activities with relevant programs in the Department of Trans-
8 portation, the Department of Defense, the Department of Commerce, and
9 the Department of Homeland Security, including the activities of the Next
10 Generation Air Transportation System Joint Planning and Development Of-
11 fice established under section 709 of the Vision 100—Century of Aviation
12 Reauthorization Act (Public Law 108–176, 49 U.S.C. 40101 note).

13 **§ 40104. Cooperation among Mission Directorates**

14 Research and development activities performed by the Aeronautics Re-
15 search Mission Directorate with the primary objective of assisting in the de-
16 velopment of a flight project in another Mission Directorate shall be funded
17 by the Mission Directorate seeking assistance.

18 SUBCHAPTER II—HIGH PRIORITY AERONAUTICS RESEARCH
19 AND DEVELOPMENT PROGRAMS

20 **§ 40111. Fundamental research program**

21 (a) OBJECTIVE.—In order to ensure that the Nation maintains needed
22 capabilities in fundamental areas of aeronautics research, the Administrator
23 shall establish a program of long-term fundamental research in aeronautical
24 sciences and technologies that is not tied to specific development projects.

25 (b) OPERATION.—The Administrator shall conduct the program under
26 this section, in part by awarding grants to institutions of higher education.
27 The Administrator shall encourage the participation of institutions of higher
28 education located in States that participate in the Experimental Program
29 to Stimulate Competitive Research. All grants to institutions of higher edu-
30 cation under this section shall be awarded through merit review.

31 **§ 40112. Research and technology programs**

32 (a) SUPERSONIC TRANSPORT RESEARCH AND DEVELOPMENT.—The Ad-
33 ministrator may establish an initiative with the objective of developing and
34 demonstrating, in a relevant environment, airframe and propulsion tech-
35 nologies to enable efficient, economical overland flight of supersonic civil
36 transport aircraft with no significant impact on the environment.

37 (b) ROTORCRAFT AND OTHER RUNWAY-INDEPENDENT AIR VEHICLES.—
38 The Administrator may establish a rotorcraft and other runway-independent
39 air vehicles initiative with the objective of developing and demonstrating im-
40 proved safety, noise, and environmental impact in a relevant environment.

1 (c) **HYPERSONICS RESEARCH.**—The Administrator may establish a
2 hypersonic research program with the objective of exploring the science and
3 technology of hypersonic flight using air-breathing propulsion concepts,
4 through a mix of theoretical work, basic and applied research, and develop-
5 ment of flight research demonstration vehicles. The program may also in-
6 clude the transition to the hypersonic range of Mach 3 to Mach 5.

7 (d) **REVOLUTIONARY AERONAUTICAL CONCEPTS.**—The Administrator
8 may establish a research program which covers a unique range of subsonic,
9 fixed wing vehicles and propulsion concepts. This research is intended to
10 push technology barriers beyond current subsonic technology. Propulsion
11 concepts include advanced materials, morphing engines, hybrid engines, and
12 fuel cells.

13 (e) **FUEL CELL-POWERED AIRCRAFT RESEARCH.**—

14 (1) **OBJECTIVE.**—The Administrator may establish a fuel cell-pow-
15 ered aircraft research program whose objective shall be to develop and
16 test concepts to enable a hydrogen fuel cell-powered aircraft that would
17 have no hydrocarbon or nitrogen oxide emissions into the environment.

18 (2) **APPROACH.**—The Administrator may establish a program of
19 competitively awarded grants available to teams of researchers that
20 may include the participation of individuals from universities, industry,
21 and government for the conduct of this research.

22 (f) **MARS AIRCRAFT RESEARCH.**—

23 (1) **OBJECTIVE.**—The Administrator may establish a Mars Aircraft
24 project whose objective shall be to develop and test concepts for an
25 uncrewed aircraft that could operate for sustained periods in the at-
26 mosphere of Mars.

27 (2) **APPROACH.**—The Administrator may establish a program of
28 competitively awarded grants available to teams of researchers that
29 may include the participation of individuals from universities, industry,
30 and government for the conduct of this research.

31 **§ 40113. Airspace systems research**

32 (a) **OBJECTIVE.**—The Airspace Systems Research program shall pursue
33 research and development to enable revolutionary improvements to and mod-
34 ernization of the National Airspace System, as well as to enable the intro-
35 duction of new systems for vehicles that can take advantage of an improved,
36 modern air transportation system.

37 (b) **ALIGNMENT.**—Not later than 1 year after December 30, 2005, the
38 Administrator shall align the projects of the Airspace Systems Research
39 program so that they directly support the objectives of the Joint Planning
40 and Development Office’s Next Generation Air Transportation System Inte-
41 grated Plan.

1 **§ 40114. Aviation safety and security research**

2 (a) OBJECTIVE.—The Aviation Safety and Security Research program
3 shall pursue research and development activities that directly address the
4 safety and security needs of the National Airspace System and the aircraft
5 that fly in it. The program shall develop prevention, intervention, and miti-
6 gation technologies aimed at causal, contributory, or circumstantial factors
7 of aviation accidents.

8 (b) ALIGNMENT.—Not later than 1 year after December 30, 2005, the
9 Administrator shall align the projects of the Aviation Safety and Security
10 Research program so that they directly support the objectives of the Joint
11 Planning and Development Office’s Next Generation Air Transportation
12 System Integrated Plan.

13 **§ 40115. Aviation weather research**

14 The Administrator may carry out a program of collaborative research
15 with the National Oceanic and Atmospheric Administration on convective
16 weather events, with the goal of significantly improving the reliability of 2-
17 hour to 6-hour aviation weather forecasts.

18 **§ 40116. University-based Centers for Research on Aviation**
19 **Training**

20 (a) IN GENERAL.—The Administrator shall award grants to institutions
21 of higher education (or consortia thereof) to establish one or more Centers
22 for Research on Aviation Training under cooperative agreements with ap-
23 propriate Administration Centers.

24 (b) PURPOSE.—The purpose of the Centers for Research on Aviation
25 Training shall be to investigate the impact of new technologies and proce-
26 dures, particularly those related to the aircraft flight deck and to the air
27 traffic management functions, on training requirements for pilots and air
28 traffic controllers.

29 (c) APPLICATION.—An institution of higher education (or a consortium
30 of such institutions) seeking funding under this section shall submit an ap-
31 plication to the Administrator at such time, in such manner, and containing
32 such information as the Administrator may require, including, at a min-
33 imum, a 5-year research plan.

34 (d) AWARD DURATION.—An award made by the Administrator under this
35 section shall be for a period of 5 years and may be renewed on the basis
36 of—

- 37 (1) satisfactory performance in meeting the goals of the research
38 plan proposed in the application submitted under subsection (c); and
39 (2) other requirements as specified by the Administrator.

SUBCHAPTER III—SCHOLARSHIPS

§ 40131. Aeronautics scholarships

(a) ESTABLISHMENT.—The Administrator shall establish a program of scholarships for full-time graduate students who are United States citizens and are enrolled in, or have been accepted by and have indicated their intention to enroll in, accredited Masters degree programs in aeronautical engineering or equivalent programs at institutions of higher education. Each such scholarship shall cover the costs of room, board, tuition, and fees, and may be provided for a maximum of 2 years.

(b) IMPLEMENTATION.—Not later than 180 days after December 30, 2005, the Administrator shall publish regulations governing the scholarship program under this section.

(c) COOPERATIVE TRAINING OPPORTUNITIES.—Students who have been awarded a scholarship under this section shall have the opportunity for paid employment at one of the Administration Centers engaged in aeronautics research and development during the summer prior to the first year of the student's Masters program, and between the first and second year, if applicable.

SUBCHAPTER IV—DATA REQUESTS

§ 40141. Aviation data requests

The Administrator shall make available upon request satellite imagery and aerial photography of remote terrain that the Administration owns at the time of the request to the Administrator of the Federal Aviation Administration or the Director of the Five Star Medallion Program, to assist and train pilots in navigating challenging topographical features of such terrain.

CHAPTER 403—NATIONAL SPACE GRANT COLLEGE AND FELLOWSHIP PROGRAM

Sec.

- 40301. Purposes.
- 40302. Definitions.
- 40303. National space grant college and fellowship program.
- 40304. Grants or contracts.
- 40305. Specific national needs.
- 40306. Space grant college and space grant regional consortium.
- 40307. Space grant fellowship program.
- 40308. Space grant review panel.
- 40309. Availability of other Federal personnel and data.
- 40310. Designation or award to be on competitive basis.
- 40311. Continuing emphasis.

§ 40301. Purposes

The purposes of this chapter are to—

- (1) increase the understanding, assessment, development, and utilization of space resources by promoting a strong educational base, respon-

1 sive research and training activities, and broad and prompt dissemina-
2 tion of knowledge and techniques;

3 (2) utilize the abilities and talents of the universities of the Nation
4 to support and contribute to the exploration and development of the
5 resources and opportunities afforded by the space environment;

6 (3) encourage and support, within the university community of the
7 Nation, the existence of interdisciplinary and multidisciplinary pro-
8 grams of space research that—

9 (A) engage in integrated activities of training, research, and
10 public service;

11 (B) have cooperative programs with industry; and

12 (C) are coordinated with the overall program of the Administra-
13 tion;

14 (4) encourage and support the existence of consortia, made up of
15 university and industry members, in order to advance the exploration
16 and development of space resources in cases in which national objec-
17 tives can be better fulfilled through such consortia than through the
18 programs of single universities;

19 (5) encourage and support Federal funding for graduate fellowships
20 in fields related to space; and

21 (6) support activities in colleges and universities generally for the
22 purpose of creating and operating a network of institutional programs
23 that will enhance achievements resulting from efforts under this chap-
24 ter.

25 § 40302. Definitions

26 In this chapter:

27 (1) AERONAUTICAL AND SPACE ACTIVITIES.—The term “aero-
28 nautical and space activities” has the meaning given the term in sec-
29 tion 20103 of this title.

30 (2) FIELD RELATED TO SPACE.—The term “field related to space”
31 means any academic discipline or field of study (including the physical,
32 natural, and biological sciences, and engineering, space technology, edu-
33 cation, economics, sociology, communications, planning, law, inter-
34 national affairs, and public administration) which is concerned with or
35 likely to improve the understanding, assessment, development, and uti-
36 lization of space.

37 (3) PANEL.—The term “panel” means the space grant review panel
38 established pursuant to section 40308 of this title.

39 (4) PERSON.—The term “person” means any individual, any public
40 or private corporation, partnership, or other association or entity (in-
41 cluding any space grant college, space grant regional consortium, insti-

1 tution of higher education, institute, or laboratory), or any State, polit-
2 ical subdivision of a State, or agency or officer of a State or political
3 subdivision of a State.

4 (5) SPACE ENVIRONMENT.—The term “space environment” means
5 the environment beyond the sensible atmosphere of the Earth.

6 (6) SPACE GRANT COLLEGE.—The term “space grant college” means
7 any public or private institution of higher education which is designated
8 as such by the Administrator pursuant to section 40306 of this title.

9 (7) SPACE GRANT PROGRAM.—The term “space grant program”
10 means any program that—

11 (A) is administered by any space grant college, space grant re-
12 gional consortium, institution of higher education, institute, lab-
13 oratory, or State or local agency; and

14 (B) includes 2 or more projects involving education and one or
15 more of the following activities in the fields related to space:

16 (i) Research.

17 (ii) Training.

18 (iii) Advisory services.

19 (8) SPACE GRANT REGIONAL CONSORTIUM.—The term “space grant
20 regional consortium” means any association or other alliance that is
21 designated as a space grant regional consortium by the Administrator
22 pursuant to section 40306 of this title.

23 (9) SPACE RESOURCE.—The term “space resource” means any tan-
24 gible or intangible benefit which can be realized only from—

25 (A) aeronautical and space activities; or

26 (B) advancements in any field related to space.

27 (10) STATE.—The term “State” means any State of the United
28 States, the District of Columbia, the Commonwealth of Puerto Rico,
29 the Virgin Islands, Guam, American Samoa, the Commonwealth of the
30 Northern Mariana Islands, or any other territory or possession of the
31 United States.

32 **§ 40303. National space grant college and fellowship pro-**
33 **gram**

34 (a) ESTABLISHMENT.—The Administrator shall establish and maintain,
35 within the Administration, a program to be known as the national space
36 grant college and fellowship program. The national space grant college and
37 fellowship program shall consist of the financial assistance and other activi-
38 ties provided for in this chapter. The Administrator shall establish long-
39 range planning guidelines and priorities, and adequately evaluate the pro-
40 gram.

41 (b) FUNCTIONS.—Within the Administration, the program shall—

1 (1) apply the long-range planning guidelines and the priorities estab-
2 lished by the Administrator under subsection (a);

3 (2) advise the Administrator with respect to the expertise and capa-
4 bilities which are available through the national space grant college and
5 fellowship program, and make such expertise available to the Adminis-
6 tration as directed by the Administrator;

7 (3) evaluate activities conducted under grants and contracts awarded
8 pursuant to sections 40304 and 40305 of this title to ensure that the
9 purposes set forth in section 40301 of this title are implemented;

10 (4) encourage other Federal departments, agencies, and instrumen-
11 talities to use and take advantage of the expertise and capabilities
12 which are available through the national space grant college and fellow-
13 ship program, on a cooperative or other basis;

14 (5) encourage cooperation and coordination with other Federal pro-
15 grams concerned with the development of space resources and fields re-
16 lated to space;

17 (6) advise the Administrator on the designation of recipients sup-
18 ported by the national space grant college and fellowship program and,
19 in appropriate cases, on the termination or suspension of any such des-
20 ignation; and

21 (7) encourage the formation and growth of space grant and fellow-
22 ship programs.

23 (e) GENERAL AUTHORITIES.—To carry out the provisions of this chapter,
24 the Administrator may—

25 (1) accept conditional or unconditional gifts or donations of services,
26 money, or property, real, personal or mixed, tangible or intangible;

27 (2) accept and use funds from other Federal departments, agencies,
28 and instrumentalities to pay for fellowships, grants, contracts, and
29 other transactions; and

30 (3) issue such rules and regulations as may be necessary and appro-
31 priate.

32 **§ 40304. Grants or contracts**

33 (a) AUTHORITY OF ADMINISTRATOR.—The Administrator may make
34 grants and enter into contracts or other transactions under this subsection
35 to assist any space grant and fellowship program or project if the Adminis-
36 trator finds that the program or project will carry out the purposes set forth
37 in section 40301 of this title. The total amount paid pursuant to a grant
38 or contract may equal not more than 66 percent of the total cost of the
39 space grant and fellowship program or project involved, except in the case
40 of grants or contracts paid for with funds accepted by the Administrator
41 pursuant to section 40303(e)(2) of this title.

1 (b) SPECIAL GRANTS.—The Administrator may make special grants
2 under this subsection to carry out the purposes set forth in section 40301
3 of this title. The amount of a special grant may equal up to 100 percent
4 of the total cost of the project involved. A special grant may be made under
5 this subsection only if the Administrator finds that—

6 (1) no reasonable means is available through which the applicant can
7 meet the matching requirement for a grant under subsection (a);

8 (2) the probable benefit of the project outweighs the public interest
9 in the matching requirement; and

10 (3) the same or equivalent benefit cannot be obtained through the
11 award of a contract or grant under subsection (a) or section 40305 of
12 this title.

13 (c) APPLICATION.—Any person may apply to the Administrator for a
14 grant or contract under this section. Application shall be made in such form
15 and manner, and with such content and other submissions, as the Adminis-
16 trator shall by regulation prescribe.

17 (d) TERMS AND CONDITIONS.—

18 (1) IN GENERAL.—Any grant made, or contract entered into, under
19 this section shall be subject to the limitations and provisions set forth
20 in paragraphs (2) and (3) and to such other terms, conditions, and re-
21 quirements as the Administrator considers necessary or appropriate.

22 (2) LIMITATIONS.—No payment under any grant or contract under
23 this section may be applied to—

24 (A) the purchase of any land;

25 (B) the purchase, construction, preservation, or repair of any
26 building; or

27 (C) the purchase or construction of any launch facility or launch
28 vehicle.

29 (3) LEASES.—Notwithstanding paragraph (2), the items in subpara-
30 graphs (A), (B), and (C) of such paragraph may be leased upon writ-
31 ten approval of the Administrator.

32 (4) RECORDS.—Any person that receives or utilizes any proceeds of
33 any grant or contract under this section shall keep such records as the
34 Administrator shall by regulation prescribe as being necessary and ap-
35 propriate to facilitate effective audit and evaluation, including records
36 which fully disclose the amount and disposition by such recipient of
37 such proceeds, the total cost of the program or project in connection
38 with which such proceeds were used, and the amount, if any, of such
39 cost which was provided through other sources. Such records shall be
40 maintained for 3 years after the completion of such a program or
41 project. The Administrator and the Comptroller General of the United

1 States, or any of their duly authorized representatives, shall have ac-
 2 cess, for the purpose of audit and evaluation, to any books, documents,
 3 papers, and records of receipts which, in the opinion of the Adminis-
 4 trator or the Comptroller General, may be related or pertinent to such
 5 grants and contracts.

6 **§ 40305. Specific national needs**

7 (a) IDENTIFICATION OF SPECIFIC NEEDS AND GRANT-MAKING AND CON-
 8 TRACTING AUTHORITY.—The Administrator shall identify specific national
 9 needs and problems relating to space. The Administrator may make grants
 10 or enter into contracts under this section with respect to such needs or
 11 problems. The amount of any such grant or contract may equal up to 100
 12 percent of the total cost of the project involved.

13 (b) APPLICATIONS FOR GRANTS OR CONTRACTS.—Any person may apply
 14 to the Administrator for a grant or contract under this section. In addition,
 15 the Administrator may invite applications with respect to specific national
 16 needs or problems identified under subsection (a). Application shall be made
 17 in such form and manner, and with such content and other submissions,
 18 as the Administrator shall by regulation prescribe. Any grant made, or con-
 19 tract entered into, under this section shall be subject to the limitations and
 20 provisions set forth in paragraphs (2) and (4) of section 40304(d) of this
 21 title and to such other terms, conditions, and requirements as the Adminis-
 22 trator considers necessary or appropriate.

23 **§ 40306. Space grant college and space grant regional con-**
 24 **sortium**

25 (a) DESIGNATION AND QUALIFICATIONS.—

26 (1) AUTHORITY TO DESIGNATE.—The Administrator may des-
 27 ignate—

28 (A) any institution of higher education as a space grant college;

29 and

30 (B) any association or other alliance of 2 or more persons, other
 31 than individuals, as a space grant regional consortium.

32 (2) SPACE GRANT COLLEGE REQUIREMENTS.—No institution of
 33 higher education may be designated as a space grant college unless the
 34 Administrator finds that such institution—

35 (A) is maintaining a balanced program of research, education,
 36 training, and advisory services in fields related to space;

37 (B) will act in accordance with such guidelines as are prescribed
 38 under subsection (b)(2); and

39 (C) meets such other qualifications as the Administrator con-
 40 siders necessary or appropriate.

1 (3) SPACE GRANT REGIONAL CONSORTIUM REQUIREMENTS.—No as-
 2 sociation or other alliance of 2 or more persons may be designated as
 3 a space grant regional consortium unless the Administrator finds that
 4 such association or alliance—

5 (A) is established for the purpose of sharing expertise, research,
 6 educational facilities or training facilities, and other capabilities in
 7 order to facilitate research, education, training, and advisory serv-
 8 ices in any field related to space;

9 (B) will encourage and follow a regional approach to solving
 10 problems or meeting needs relating to space, in cooperation with
 11 appropriate space grant colleges, space grant programs, and other
 12 persons in the region;

13 (C) will act in accordance with such guidelines as are prescribed
 14 under subsection (b)(2); and

15 (D) meets such other qualifications as the Administrator con-
 16 siders necessary or appropriate.

17 (b) QUALIFICATIONS AND GUIDELINES.—The Administrator shall by reg-
 18 ulation prescribe—

19 (1) the qualifications required to be met under paragraphs (2)(C)
 20 and (3)(D) of subsection (a); and

21 (2) guidelines relating to the activities and responsibilities of space
 22 grant colleges and space grant regional consortia.

23 (c) SUSPENSION OR TERMINATION OF DESIGNATION.—The Administrator
 24 may, for cause and after an opportunity for hearing, suspend or terminate
 25 any designation under subsection (a).

26 **§ 40307. Space grant fellowship program**

27 (a) AWARD OF FELLOWSHIPS.—The Administrator shall support a space
 28 grant fellowship program to provide educational and training assistance to
 29 qualified individuals at the graduate level of education in fields related to
 30 space. Such fellowships shall be awarded pursuant to guidelines established
 31 by the Administrator. Space grant fellowships shall be awarded to individ-
 32 uals at space grant colleges, space grant regional consortia, other colleges
 33 and institutions of higher education, professional associations, and institutes
 34 in such a manner as to ensure wide geographic and institutional diversity
 35 in the pursuit of research under the fellowship program.

36 (b) LIMITATION ON AMOUNT PROVIDED.—The total amount which may
 37 be provided for grants under the space grant fellowship program during any
 38 fiscal year shall not exceed an amount equal to 50 percent of the total funds
 39 appropriated for such year pursuant to this chapter.

40 (c) AUTHORITY TO SPONSOR OTHER RESEARCH FELLOWSHIP PROGRAMS
 41 UNAFFECTED.—Nothing in this section shall be construed to prohibit the

1 Administrator from sponsoring any research fellowship program, including
2 any special emphasis program, which is established under an authority other
3 than this chapter.

4 **§ 40308. Space grant review panel**

5 (a) ESTABLISHMENT.—The Administrator shall establish an independent
6 committee known as the space grant review panel, which shall not be subject
7 to the provisions of the Federal Advisory Committee Act (5 App. U.S.C.).

8 (b) DUTIES.—The panel shall take such steps as may be necessary to re-
9 view, and shall advise the Administrator with respect to—

10 (1) applications or proposals for, and performance under, grants and
11 contracts awarded pursuant to sections 40304 and 40305 of this title;

12 (2) the space grant fellowship program;

13 (3) the designation and operation of space grant colleges and space
14 grant regional consortia, and the operation of space grant and fellow-
15 ship programs;

16 (4) the formulation and application of the planning guidelines and
17 priorities pursuant to subsections (a) and (b)(1) of section 40303 of
18 this title; and

19 (5) such other matters as the Administrator refers to the panel for
20 review and advice.

21 (c) PERSONNEL AND ADMINISTRATIVE SERVICES.—The Administrator
22 shall make available to the panel any information, personnel, and adminis-
23 trative services and assistance which is reasonable to carry out the duties
24 of the panel.

25 (d) MEMBERS.—

26 (1) APPOINTMENT.—The Administrator shall appoint the voting
27 members of the panel. A majority of the voting members shall be indi-
28 viduals who, by reason of knowledge, experience, or training, are espe-
29 cially qualified in one or more of the disciplines and fields related to
30 space. The other voting members shall be individuals who, by reason
31 of knowledge, experience, or training, are especially qualified in, or rep-
32 resentative of, education, extension services, State government, indus-
33 try, economics, planning, or any other activity related to efforts to en-
34 hance the understanding, assessment, development, or utilization of
35 space resources. The Administrator shall consider the potential conflict
36 of interest of any individual in making appointments to the panel.

37 (2) CHAIRMAN AND VICE CHAIRMAN.—The Administrator shall select
38 one voting member to serve as the Chairman and another voting mem-
39 ber to serve as the Vice Chairman. The Vice Chairman shall act as
40 Chairman in the absence or incapacity of the Chairman.

1 (3) REIMBURSEMENT FOR EXPENSES.—Voting members of the panel
2 who are not Federal employees shall be reimbursed for actual and rea-
3 sonable expenses incurred in the performance of such duties.

4 (4) MEETINGS.—The panel shall meet on a biannual basis and, at
5 any other time, at the call of the Chairman or upon the request of a
6 majority of the voting members or of the Administrator.

7 (5) POWERS.—The panel may exercise such powers as are reasonably
8 necessary in order to carry out the duties enumerated in subsection (b).

9 **§ 40309. Availability of other Federal personnel and data**

10 Each department, agency, or other instrumentality of the Federal Govern-
11 ment that is engaged in or concerned with, or that has authority over, mat-
12 ters relating to space—

13 (1) may, upon a written request from the Administrator, make avail-
14 able, on a reimbursable basis or otherwise, any personnel (with their
15 consent and without prejudice to their position and rating), service, or
16 facility which the Administrator considers necessary to carry out any
17 provision of this chapter;

18 (2) may, upon a written request from the Administrator, furnish any
19 available data or other information which the Administrator considers
20 necessary to carry out any provision of this chapter; and

21 (3) may cooperate with the Administration.

22 **§ 40310. Designation or award to be on competitive basis**

23 The Administrator shall not under this chapter designate any space grant
24 college or space grant regional consortium or award any fellowship, grant,
25 or contract unless such designation or award is made in accordance with
26 the competitive, merit-based review process employed by the Administration
27 on October 30, 1987.

28 **§ 40311. Continuing emphasis**

29 The Administration shall continue its emphasis on the importance of edu-
30 cation to expand opportunities for Americans to understand and participate
31 in the Administration's aeronautics and space projects by supporting and
32 enhancing science and engineering education, research, and public outreach
33 efforts.

34 **CHAPTER 405—BIOMEDICAL RESEARCH IN SPACE**

Sec.

40501. Biomedical research joint working group.

40502. Biomedical research grants.

40503. Biomedical research fellowships.

40504. Establishment of electronic data archive.

40505. Establishment of emergency medical service telemedicine capability.

§ 40501. Biomedical research joint working group

(a) ESTABLISHMENT.—The Administrator and the Director of the National Institutes of Health shall jointly establish a working group to coordinate biomedical research activities in areas where a microgravity environment may contribute to significant progress in the understanding and treatment of diseases and other medical conditions. The joint working group shall formulate joint and complementary programs in such areas of research.

(b) MEMBERSHIP.—The joint working group shall include equal representation from the Administration and the National Institutes of Health, and shall include representation from National Institutes of Health councils, as selected by the Director of the National Institutes of Health, and from the National Aeronautics and Space Administration Advisory Council.

(c) ANNUAL BIOMEDICAL RESEARCH SYMPOSIA.—The joint working group shall organize annual symposia on biomedical research described in subsection (a) under the joint sponsorship of the Administration and the National Institutes of Health.

(d) ANNUAL REPORTING REQUIREMENT.—The joint working group shall report annually to Congress on its progress in carrying out this section.

§ 40502. Biomedical research grants

(a) ESTABLISHMENT OF PROGRAM.—The Administrator and the Director of the National Institutes of Health shall establish a joint program of biomedical research grants in areas described in section 40501(a) of this title, where such research requires access to a microgravity environment. Such program shall be consistent with actions taken by the joint working group under section 40501 of this title.

(b) RESEARCH OPPORTUNITY ANNOUNCEMENTS.—The grants program established under subsection (a) shall annually issue joint research opportunity announcements under the sponsorship of the National Institutes of Health and the Administration. Responses to the announcements shall be evaluated by a peer review committee whose members shall be selected by the Director of the National Institutes of Health and the Administrator, and shall include individuals not employed by the Administration or the National Institutes of Health.

§ 40503. Biomedical research fellowships

The Administrator and the Director of the National Institutes of Health shall create a joint program of graduate research fellowships in biomedical research described in section 40501(a) of this title. Fellowships under such program may provide for participation in approved research conferences and symposia.

1 **§ 40504. Establishment of electronic data archive**

2 The Administrator shall create and maintain a national electronic data
3 archive for biomedical research data obtained from space-based experiments.

4 **§ 40505. Establishment of emergency medical service tele-**
5 **medicine capability**

6 The Administrator, the Administrator of the Federal Emergency Manage-
7 ment Agency, the Director of the Office of Foreign Disaster Assistance, and
8 the Surgeon General of the United States shall jointly create and maintain
9 an international telemedicine satellite consultation capability to support
10 emergency medical services in disaster-stricken areas.

11 **CHAPTER 407—ENVIRONMENTALLY FRIENDLY**
12 **AIRCRAFT**

Sec.

40701. Research and development initiative.

40702. Additional research and development initiative.

40703. Research alignment.

40704. Research program on perceived impact of sonic booms.

13 **§ 40701. Research and development initiative**

14 The Administrator may establish an initiative with the objective of devel-
15 oping, and demonstrating in a relevant environment, technologies to enable
16 the following commercial aircraft performance characteristics:

17 (1) NOISE LEVELS.—Noise levels on takeoff and on airport approach
18 and landing that do not exceed ambient noise levels in the absence of
19 flight operations in the vicinity of airports from which such commercial
20 aircraft would normally operate.

21 (2) ENERGY CONSUMPTION.—Twenty-five percent reduction in the
22 energy required for medium- to long-range flights, compared to aircraft
23 in commercial service as of December 30, 2005.

24 (3) EMISSIONS.—Nitrogen oxides on take-off and landing that are
25 significantly reduced, without adversely affecting hydrocarbons and
26 smoke, relative to aircraft in commercial service as of December 30,
27 2005.

28 **§ 40702. Additional research and development initiative**

29 The Administrator shall establish an initiative involving the Administra-
30 tion, universities, industry, and other research organizations as appropriate,
31 of research, development, and demonstration, in a relevant environment, of
32 technologies to enable the following commercial aircraft performance charac-
33 teristics:

34 (1) NOISE LEVELS.—Noise levels on takeoff and on airport approach
35 and landing that do not exceed ambient noise levels in the absence of
36 flight operations in the vicinity of airports from which such commercial
37 aircraft would normally operate, without increasing energy consumption

1 or nitrogen oxide emissions compared to aircraft in commercial service
2 as of October 15, 2008.

3 (2) GREENHOUSE GAS EMISSIONS.—Significant reductions in green-
4 house gas emissions compared to aircraft in commercial services as of
5 October 15, 2008.

6 **§ 40703. Research alignment**

7 In addition to pursuing the research and development initiative described
8 in section 40702 of this title, the Administrator shall, to the maximum ex-
9 tent practicable within available funding, align the fundamental aeronautics
10 research program to address high priority technology challenges of the Na-
11 tional Academies’ Decadal Survey of Civil Aeronautics, and shall work to
12 increase the degree of involvement of external organizations, and especially
13 of universities, in the fundamental aeronautics research program.

14 **§ 40704. Research program on perceived impact of sonic**
15 **booms**

16 (a) ESTABLISHMENT.—The Administrator shall establish a cooperative
17 research program with industry, including the conduct of flight demonstra-
18 tions in a relevant environment, to collect data on the perceived impact of
19 sonic booms. The data could enable the promulgation of appropriate stand-
20 ards for overland commercial supersonic flight operations.

21 (b) COORDINATION.—The Administrator shall ensure that sonic boom re-
22 search is coordinated as appropriate with the Administrator of the Federal
23 Aviation Administration, and as appropriate make use of the expertise of
24 the Partnership for Air Transportation Noise and Emissions Reduction
25 Center of Excellence sponsored by the Administration and the Federal Avia-
26 tion Administration.

27 **CHAPTER 409—MISCELLANEOUS**

Sec.

- 40901. Science, Space, and Technology Education Trust Fund.
- 40902. National Aeronautics and Space Administration Endeavor Teacher Fellowship Trust Fund.
- 40903. Experimental Program to Stimulate Competitive Research—merit grant competition requirements.
- 40904. Microgravity research.
- 40905. Program to expand distance learning in rural underserved areas.
- 40906. Equal access to the Administration’s education programs.
- 40907. Museums.
- 40908. Continuation of certain education programs.
- 40909. Compliance with title IX of Education Amendments of 1972.

28 **§ 40901. Science, Space, and Technology Education Trust**
29 **Fund**

30 There is appropriated, by transfer from funds appropriated in the De-
31 partment of Housing and Urban Development—Independent Agencies Ap-
32 propriations Act, 1989 (Public Law 100–404, 102 Stat. 1014), for “Con-

1 construction of facilities”, the sum of \$15,000,000 to the “Science, Space, and
2 Technology Education Trust Fund”, which is hereby established in the
3 Treasury of the United States. The Secretary of the Treasury shall invest
4 these funds in the United States Treasury special issue securities, and interest
5 shall be credited to the Trust Fund on a quarterly basis. Such interest
6 shall be available for the purpose of making grants for programs directed
7 at improving science, space, and technology education in the United States.
8 The Administrator, after consultation with the Director of the National
9 Science Foundation, shall review applications made for such grants and de-
10 termine the distribution of available funds on a competitive basis. Grants
11 shall be made available to any awardee only to the extent that the awardee
12 provides matching funds from non-Federal sources to carry out the program
13 for which grants from this Trust Fund are made. Of the funds made avail-
14 able by this Trust Fund, \$250,000 shall be disbursed each calendar quarter
15 to the Challenger Center for Space Science Education. The Administrator
16 shall submit to Congress an annual report on the grants made pursuant to
17 this section.

18 **§ 40902. National Aeronautics and Space Administration En-**
19 **deavor Teacher Fellowship Trust Fund**

20 (a) ESTABLISHMENT.—There is established in the Treasury of the United
21 States, in tribute to the dedicated crew of the Space Shuttle Challenger, a
22 trust fund to be known as the National Aeronautics and Space Administra-
23 tion Endeavor Teacher Fellowship Trust Fund (hereafter in this section re-
24 ferred to as the “Trust Fund”). The Trust Fund shall consist of amounts
25 which may from time to time, at the discretion of the Administrator, be
26 transferred from the National Aeronautics and Space Administration Gifts
27 and Donations Trust Fund.

28 (b) INVESTMENT OF TRUST FUND.—The Administrator shall direct the
29 Secretary of the Treasury to invest and reinvest funds in the Trust Fund
30 in public debt securities with maturities suitable for the needs of the Trust
31 Fund, and bearing interest at rates determined by the Secretary of the
32 Treasury, taking into consideration the current average market yield on out-
33 standing marketable obligations of the United States of comparable matu-
34 rities. Interest earned shall be credited to the Trust Fund.

35 (c) PURPOSE.—Income accruing from the Trust Fund principal shall be
36 used to create the National Aeronautics and Space Administration Endeavor
37 Teacher Fellowship Program, to the extent provided in advance in appro-
38 priation Acts. The Administrator is authorized to use such funds to award
39 fellowships to selected United States nationals who are undergraduate stu-
40 dents pursuing a course of study leading to certified teaching degrees in ele-
41 mentary education or in secondary education in mathematics, science, or

1 technology disciplines. Awards shall be made pursuant to standards estab-
 2 lished for the fellowship program by the Administrator.

3 **§ 40903. Experimental Program to Stimulate Competitive**
 4 **Research—merit grant competition requirements**

5 (a) DEFINITION OF ELIGIBLE STATE.—In this section, the term “eligible
 6 State” means a State designated by the Administrator as eligible to compete
 7 in the National Science Foundation’s Experimental Program to Stimulate
 8 Competitive Research.

9 (b) COMPETITION.—Making use of the existing infrastructure established
 10 in eligible States by the National Science Foundation, the Administrator
 11 shall conduct a merit grant competition among the eligible States in areas
 12 of research important to the mission of the Administration. With respect to
 13 a grant application by an eligible State, the Administrator shall consider—

14 (1) the application’s merit and relevance to the mission of the Ad-
 15 ministration;

16 (2) the potential for the grant to serve as a catalyst to enhance the
 17 ability of researchers in the State to become more competitive for reg-
 18 ular Administration funding;

19 (3) the potential for the grant to improve the environment for
 20 science, mathematics, and engineering education in the State; and

21 (4) the need to ensure the maximum distribution of grants among
 22 eligible States, consistent with merit.

23 (c) SUPPLEMENTAL GRANTS.—The Administrator shall endeavor, where
 24 appropriate, to supplement grants made under subsection (b) with such
 25 grants for fellowships, traineeships, equipment, or instrumentation as are
 26 available.

27 (d) INFORMATION IN ANNUAL BUDGET SUBMISSION.—In order to ensure
 28 that research expertise and talent throughout the Nation is developed and
 29 engaged in Administration research and education activities, the Adminis-
 30 tration shall, as part of its annual budget submission, detail additional steps
 31 that can be taken to further integrate the participating eligible States in
 32 both existing and new or emerging Administration research programs and
 33 center activities.

34 **§ 40904. Microgravity research**

35 The Administrator shall—

36 (1) ensure the capacity to support ground-based research leading to
 37 space-based basic and applied scientific research in a variety of dis-
 38 ciplines with potential direct national benefits and applications that can
 39 be advanced significantly from the uniqueness of microgravity and the
 40 space environment; and

1 (2) carry out, to the maximum extent practicable, basic, applied, and
2 commercial International Space Station research in fields such as mo-
3 lecular crystal growth, animal research, basic fluid physics, combustion
4 research, cellular biotechnology, low-temperature physics, and cellular
5 research at a level that will sustain the existing United States scientific
6 expertise and research capability in microgravity research.

7 **§ 40905. Program to expand distance learning in rural un-**
8 **derserved areas**

9 (a) IN GENERAL.—The Administrator shall develop or expand programs
10 to extend science and space educational outreach to rural communities and
11 schools through video conferencing, interpretive exhibits, teacher education,
12 classroom presentations, and student field trips.

13 (b) PRIORITIES.—In carrying out subsection (a), the Administrator shall
14 give priority to existing programs, including Challenger Learning Centers—

15 (1) that utilize community-based partnerships in the field;

16 (2) that build and maintain video conference and exhibit capacity;

17 (3) that travel directly to rural communities and serve low-income
18 populations; and

19 (4) with a special emphasis on increasing the number of women and
20 minorities in the science and engineering professions.

21 **§ 40906. Equal access to the Administration’s education pro-**
22 **grams**

23 (a) IN GENERAL.—The Administrator shall strive to ensure equal access
24 for minority and economically disadvantaged students to the Administra-
25 tion’s education programs.

26 (b) REPORT.—Every 2 years, the Administrator shall submit a report to
27 the Committee on Science and Technology of the House of Representatives
28 and the Committee on Commerce, Science, and Transportation of the Sen-
29 ate describing the efforts by the Administrator to ensure equal access for
30 minority and economically disadvantaged students under this section and
31 the results of such efforts. As part of the report, the Administrator shall
32 provide—

33 (1) data on minority participation in the Administration’s education
34 programs, at a minimum in the categories of—

35 (A) elementary and secondary education;

36 (B) undergraduate education; and

37 (C) graduate education; and

38 (2) the total value of grants the Administration made to Historically
39 Black Colleges and Universities and to Hispanic Serving Institutions
40 through education programs during the period covered by the report.

1 (e) PROGRAM.—The Administrator shall establish the Dr. Mae C.
2 Jemison Grant Program to work with Minority Serving Institutions to bring
3 more women of color into the field of space and aeronautics.

4 **§ 40907. Museums**

5 The Administrator may provide grants to, and enter into cooperative
6 agreements with, museums and planetariums to enable them to enhance
7 programs related to space exploration, aeronautics, space science, Earth
8 science, or microgravity.

9 **§ 40908. Continuation of certain education programs**

10 From amounts appropriated to the Administration for education pro-
11 grams, the Administrator shall ensure the continuation of the Space Grant
12 Program, the Experimental Program to Stimulate Competitive Research,
13 and, consistent with the results of the review under section 614 of the Na-
14 tional Aeronautics and Space Administration Authorization Act of 2005
15 (Public Law 109–155, 119 Stat. 2933), the Administration Explorer School
16 program, to motivate and develop the next generation of explorers.

17 **§ 40909. Compliance with title IX of Education Amendments**
18 **of 1972**

19 To comply with title IX of the Education Amendments of 1972 (20
20 U.S.C. 1681 et seq.), the Administrator shall conduct compliance reviews
21 of at least 2 grantees annually.

22 **Subtitle V—Programs Targeting**
23 **Commercial Opportunities**

24 **CHAPTER 501—SPACE COMMERCE**

SUBCHAPTER I—GENERAL

Sec.

50101. Definitions.

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SUBCHAPTER III—FEDERAL ACQUISITION OF SPACE TRANSPORTATION
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50131. Requirement to procure commercial space transportation services.

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25 SUBCHAPTER I—GENERAL

26 **§ 50101. Definitions**

27 In this chapter:

1 (1) COMMERCIAL PROVIDER.—The term “commercial provider”
2 means any person providing space transportation services or other
3 space-related activities, primary control of which is held by persons
4 other than Federal, State, local, and foreign governments.

5 (2) PAYLOAD.—The term “payload” means anything that a person
6 undertakes to transport to, from, or within outer space, or in suborbital
7 trajectory, by means of a space transportation vehicle, but does not in-
8 clude the space transportation vehicle itself except for its components
9 which are specifically designed or adapted for that payload.

10 (3) SPACE-RELATED ACTIVITIES.—The term “space-related activi-
11 ties” includes research and development, manufacturing, processing,
12 service, and other associated and support activities.

13 (4) SPACE TRANSPORTATION SERVICES.—The term “space transpor-
14 tation services” means the preparation of a space transportation vehicle
15 and its payloads for transportation to, from, or within outer space, or
16 in suborbital trajectory, and the conduct of transporting a payload to,
17 from, or within outer space, or in suborbital trajectory.

18 (5) SPACE TRANSPORTATION VEHICLE.—The term “space transpor-
19 tation vehicle” means any vehicle constructed for the purpose of oper-
20 ating in, or transporting a payload to, from, or within, outer space, or
21 in suborbital trajectory, and includes any component of such vehicle not
22 specifically designed or adapted for a payload.

23 (6) STATE.—The term “State” means each of the several States of
24 the Union, the District of Columbia, the Commonwealth of Puerto
25 Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth
26 of the Northern Mariana Islands, and any other commonwealth, terri-
27 tory, or possession of the United States.

28 (7) UNITED STATES COMMERCIAL PROVIDER.—The term “United
29 States commercial provider” means a commercial provider, organized
30 under the laws of the United States or of a State, that is—

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

32 (B) a subsidiary of a foreign company and the Secretary of
33 Transportation finds that—

34 (i) such subsidiary has in the past evidenced a substantial
35 commitment to the United States market through—

36 (I) investments in the United States in long-term re-
37 search, development, and manufacturing (including the
38 manufacture of major components and subassemblies);
39 and

40 (II) significant contributions to employment in the
41 United States; and

1 (ii) the country or countries in which such foreign company
 2 is incorporated or organized, and, if appropriate, in which it
 3 principally conducts its business, affords reciprocal treatment
 4 to companies described in subparagraph (A) comparable to
 5 that afforded to such foreign company's subsidiary in the
 6 United States, as evidenced by—

7 (I) providing comparable opportunities for companies
 8 described in subparagraph (A) to participate in Govern-
 9 ment-sponsored research and development similar to that
 10 authorized under this chapter;

11 (II) providing no barriers, to companies described in
 12 subparagraph (A) with respect to local investment oppor-
 13 tunities, that are not provided to foreign companies in
 14 the United States; and

15 (III) providing adequate and effective protection for
 16 the intellectual property rights of companies described in
 17 subparagraph (A).

18 SUBCHAPTER II—PROMOTION OF COMMERCIAL SPACE
 19 OPPORTUNITIES

20 **§ 50111. Commercialization of Space Station**

21 (a) POLICY.—Congress declares that a priority goal of constructing the
 22 International Space Station is the economic development of Earth orbital
 23 space. Congress further declares that free and competitive markets create
 24 the most efficient conditions for promoting economic development, and
 25 should therefore govern the economic development of Earth orbital space.
 26 Congress further declares that the use of free market principles in oper-
 27 ating, servicing, allocating the use of, and adding capabilities to the Space
 28 Station, and the resulting fullest possible engagement of commercial pro-
 29 viders and participation of commercial users, will reduce Space Station oper-
 30 ational costs for all partners and the Federal Government's share of the
 31 United States burden to fund operations.

32 (b) USE OF UNITED STATES COMMERCIALY PROVIDED SERVICES.—

33 (1) IN GENERAL.—In order to stimulate commercial use of space,
 34 help maximize the utility and productivity of the International Space
 35 Station, and enable a commercial means of providing crew transfer and
 36 crew rescue services for the International Space Station, the Adminis-
 37 tration shall—

38 (A) make use of United States commercially provided Inter-
 39 national Space Station crew transfer and crew rescue services to
 40 the maximum extent practicable, if those commercial services have
 41 demonstrated the capability to meet Administration-specified as-

1 cent, entry, and International Space Station proximity operations
2 safety requirements;

3 (B) limit, to the maximum extent practicable, the use of the
4 Crew Exploration Vehicle to missions carrying astronauts beyond
5 low Earth orbit once commercial crew transfer and crew rescue
6 services that meet safety requirements become operational;

7 (C) facilitate, to the maximum extent practicable, the transfer
8 of Administration-developed technologies to potential United
9 States commercial crew transfer and rescue service providers, con-
10 sistent with United States law; and

11 (D) issue a notice of intent, not later than 180 days after Octo-
12 ber 15, 2008, to enter into a funded, competitively awarded Space
13 Act Agreement with 2 or more commercial entities for a Phase 1
14 Commercial Orbital Transportation Services crewed vehicle dem-
15 onstration program.

16 (2) CONGRESSIONAL INTENT.—It is the intent of Congress that
17 funding for the program described in paragraph (1)(D) shall not come
18 at the expense of full funding of the amounts authorized under section
19 101(3)(A) of the National Aeronautics and Space Administration Au-
20 thorization Act of 2008 (Public Law 110–422, 122 Stat. 4783), and
21 for future fiscal years, for Orion Crew Exploration Vehicle develop-
22 ment, Ares I Crew Launch Vehicle development, or International Space
23 Station cargo delivery.

24 (3) ADDITIONAL TECHNOLOGIES.—The Administration shall make
25 International Space Station-compatible docking adaptors and other rel-
26 evant technologies available to the commercial crew providers selected
27 to service the International Space Station.

28 (4) CREW TRANSFER AND CREW RESCUE SERVICES CONTRACT.—If
29 a commercial provider demonstrates the capability to provide Inter-
30 national Space Station crew transfer and crew rescue services and to
31 satisfy Administration ascent, entry, and International Space Station
32 proximity operations safety requirements, the Administration shall
33 enter into an International Space Station crew transfer and crew res-
34 cue services contract with that commercial provider for a portion of the
35 Administration’s anticipated International Space Station crew transfer
36 and crew rescue requirements from the time the commercial provider
37 commences operations under contract with the Administration through
38 calendar year 2016, with an option to extend the period of performance
39 through calendar year 2020.

1 **§ 50112. Promotion of United States Global Positioning Sys-**
 2 **tem standards**

3 In order to support and sustain the Global Positioning System in a man-
 4 ner that will most effectively contribute to the national security, public safe-
 5 ty, scientific, and economic interests of the United States, Congress encour-
 6 ages the President to—

7 (1) ensure the operation of the Global Positioning System on a con-
 8 tinuous worldwide basis free of direct user fees;

9 (2) enter into international agreements that promote cooperation
 10 with foreign governments and international organizations to—

11 (A) establish the Global Positioning System and its augmenta-
 12 tions as an acceptable international standard; and

13 (B) eliminate any foreign barriers to applications of the Global
 14 Positioning System worldwide; and

15 (3) provide clear direction and adequate resources to the Assistant
 16 Secretary of Commerce for Communications and Information so that
 17 on an international basis the Assistant Secretary can—

18 (A) achieve and sustain efficient management of the electro-
 19 magnetic spectrum used by the Global Positioning System; and

20 (B) protect that spectrum from disruption and interference.

21 **§ 50113. Acquisition of space science data**

22 (a) DEFINITION OF SPACE SCIENCE DATA.—In this section, the term
 23 “space science data” includes scientific data concerning—

24 (1) the elemental and mineralogical resources of the moon, asteroids,
 25 planets and their moons, and comets;

26 (2) microgravity acceleration; and

27 (3) solar storm monitoring.

28 (b) ACQUISITION FROM COMMERCIAL PROVIDERS.—The Administrator
 29 shall, to the extent possible and while satisfying the scientific or educational
 30 requirements of the Administration, and where appropriate, of other Federal
 31 agencies and scientific researchers, acquire, where cost effective, space
 32 science data from a commercial provider.

33 (c) TREATMENT OF SPACE SCIENCE DATA AS COMMERCIAL ITEM UNDER
 34 ACQUISITION LAWS.—Acquisitions of space science data by the Adminis-
 35 trator shall be carried out in accordance with applicable acquisition laws
 36 and regulations (including chapters 137 and 140 of title 10). For purposes
 37 of such law and regulations, space science data shall be considered to be
 38 a commercial item. Nothing in this subsection shall be construed to preclude
 39 the United States from acquiring, through contracts with commercial pro-
 40 viders, sufficient rights in data to meet the needs of the scientific and edu-
 41 cational community or the needs of other government activities.

1 (d) SAFETY STANDARDS.—Nothing in this section shall be construed to
2 prohibit the Federal Government from requiring compliance with applicable
3 safety standards.

4 (e) LIMITATION.—This section does not authorize the Administration to
5 provide financial assistance for the development of commercial systems for
6 the collection of space science data.

7 **§ 50114. Administration of commercial space centers**

8 The Administrator shall administer the Commercial Space Center pro-
9 gram in a coordinated manner from Administration headquarters in Wash-
10 ington, D.C.

11 **§ 50115. Sources of Earth science data**

12 (a) ACQUISITION.—The Administrator shall, to the extent possible and
13 while satisfying the scientific or educational requirements of the Administra-
14 tion, and where appropriate, of other Federal agencies and scientific re-
15 searchers, acquire, where cost-effective, space-based and airborne Earth re-
16 mote sensing data, services, distribution, and applications from a commer-
17 cial provider.

18 (b) TREATMENT AS COMMERCIAL ITEM UNDER ACQUISITION LAWS.—Ac-
19 quisitions by the Administrator of the data, services, distribution, and appli-
20 cations referred to in subsection (a) shall be carried out in accordance with
21 applicable acquisition laws and regulations (including chapters 137 and 140
22 of title 10). For purposes of such law and regulations, such data, services,
23 distribution, and applications shall be considered to be a commercial item.
24 Nothing in this subsection shall be construed to preclude the United States
25 from acquiring, through contracts with commercial providers, sufficient
26 rights in data to meet the needs of the scientific and educational community
27 or the needs of other government activities.

28 (c) SAFETY STANDARDS.—Nothing in this section shall be construed to
29 prohibit the Federal Government from requiring compliance with applicable
30 safety standards.

31 (d) ADMINISTRATION AND EXECUTION.—This section shall be carried out
32 as part of the Commercial Remote Sensing Program at the Stennis Space
33 Center.

34 **§ 50116. Commercial technology transfer program**

35 (a) IN GENERAL.—The Administrator shall execute a commercial tech-
36 nology transfer program with the goal of facilitating the exchange of serv-
37 ices, products, and intellectual property between the Administration and the
38 private sector. This program shall place at least as much emphasis on en-
39 couraging the transfer of Administration technology to the private sector
40 (“spinning out”) as on encouraging use of private sector technology by the
41 Administration. This program shall be maintained in a manner that pro-

1 vides clear benefits for the Administration, the domestic economy, and the
2 research community.

3 (b) PROGRAM STRUCTURE.—In carrying out the program described in
4 subsection (a), the Administrator shall provide program participants with at
5 least 45 days notice of any proposed changes to the structure of the Admin-
6 istration’s technology transfer and commercialization organizations that is
7 in effect as of December 30, 2005.

8 SUBCHAPTER III—FEDERAL ACQUISITION OF SPACE
9 TRANSPORTATION SERVICES

10 **§ 50131. Requirement to procure commercial space trans-**
11 **portation services**

12 (a) IN GENERAL.—Except as otherwise provided in this section, the Fed-
13 eral Government shall acquire space transportation services from United
14 States commercial providers whenever such services are required in the
15 course of its activities. To the maximum extent practicable, the Federal
16 Government shall plan missions to accommodate the space transportation
17 services capabilities of United States commercial providers.

18 (b) EXCEPTIONS.—The Federal Government shall not be required to ac-
19 quire space transportation services under subsection (a) if, on a case-by-case
20 basis, the Administrator or, in the case of a national security issue, the Sec-
21 retary of the Air Force, determines that—

22 (1) a payload requires the unique capabilities of the space shuttle;

23 (2) cost effective space transportation services that meet specific
24 mission requirements would not be reasonably available from United
25 States commercial providers when required;

26 (3) the use of space transportation services from United States com-
27 mercial providers poses an unacceptable risk of loss of a unique sci-
28 entific opportunity;

29 (4) the use of space transportation services from United States com-
30 mercial providers is inconsistent with national security objectives;

31 (5) the use of space transportation services from United States com-
32 mercial providers is inconsistent with international agreements for
33 international collaborative efforts relating to science and technology;

34 (6) it is more cost effective to transport a payload in conjunction
35 with a test or demonstration of a space transportation vehicle owned
36 by the Federal Government; or

37 (7) a payload can make use of the available cargo space on a space
38 shuttle mission as a secondary payload, and such payload is consistent
39 with the requirements of research, development, demonstration, sci-
40 entific, commercial, and educational programs authorized by the Ad-
41 ministrator.

1 (c) AGREEMENTS WITH FOREIGN ENTITIES.—Nothing in this section
 2 shall prevent the Administrator from planning or negotiating agreements
 3 with foreign entities for the launch of Federal Government payloads for
 4 international collaborative efforts relating to science and technology.

5 (d) DELAYED EFFECT.—Subsection (a) shall not apply to space transpor-
 6 tation services and space transportation vehicles acquired or owned by the
 7 Federal Government before October 28, 1998, or with respect to which a
 8 contract for such acquisition or ownership has been entered into before Oc-
 9 tober 28, 1998.

10 (e) HISTORICAL PURPOSES.—This section shall not be construed to pro-
 11 hibit the Federal Government from acquiring, owning, or maintaining space
 12 transportation vehicles solely for historical display purposes.

13 **§ 50132. Acquisition of commercial space transportation**
 14 **services**

15 (a) TREATMENT OF COMMERCIAL SPACE TRANSPORTATION SERVICES AS
 16 COMMERCIAL ITEM UNDER ACQUISITION LAWS.—Acquisitions of space
 17 transportation services by the Federal Government shall be carried out in
 18 accordance with applicable acquisition laws and regulations (including chap-
 19 ters 137 and 140 of title 10). For purposes of such law and regulations,
 20 space transportation services shall be considered to be a commercial item.

21 (b) SAFETY STANDARDS.—Nothing in this section shall be construed to
 22 prohibit the Federal Government from requiring compliance with applicable
 23 safety standards.

24 **§ 50133. Shuttle privatization**

25 The Administrator shall prepare for an orderly transition from the Fed-
 26 eral operation, or Federal management of contracted operation, of space
 27 transportation systems to the Federal purchase of commercial space trans-
 28 portation services for all nonemergency space transportation requirements
 29 for transportation to and from Earth orbit, including human, cargo, and
 30 mixed payloads. In those preparations, the Administrator shall take into ac-
 31 count the need for short-term economies, as well as the goal of restoring
 32 the Administration's research focus and its mandate to promote the fullest
 33 possible commercial use of space. As part of those preparations, the Admin-
 34 istrator shall plan for the potential privatization of the space shuttle pro-
 35 gram. Such plan shall keep safety and cost effectiveness as high priorities.
 36 Nothing in this section shall prohibit the Administration from studying, de-
 37 signing, developing, or funding upgrades or modifications essential to the
 38 safe and economical operation of the space shuttle fleet.

39 **§ 50134. Use of excess intercontinental ballistic missiles**

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

1 (1) convert any missile described in subsection (c) to a space trans-
2 portation vehicle configuration; or

3 (2) transfer ownership of any such missile to another person, except
4 as provided in subsection (b).

5 (b) AUTHORIZED FEDERAL USES.—

6 (1) IN GENERAL.—A missile described in subsection (c) may be con-
7 verted for use as a space transportation vehicle by the Federal Govern-
8 ment if, except as provided in paragraph (2) and at least 30 days be-
9 fore such conversion, the agency seeking to use the missile as a space
10 transportation vehicle transmits to the Committee on Armed Services
11 and the Committee on Science and Technology of the House of Rep-
12 resentatives, and to the Committee on Armed Services and the Com-
13 mittee on Commerce, Science, and Transportation of the Senate, a cer-
14 tification that the use of such missile—

15 (A) would result in cost savings to the Federal Government
16 when compared to the cost of acquiring space transportation serv-
17 ices from United States commercial providers;

18 (B) meets all mission requirements of the agency, including per-
19 formance, schedule, and risk requirements;

20 (C) is consistent with international obligations of the United
21 States; and

22 (D) is approved by the Secretary of Defense or the designee of
23 the Secretary of Defense.

24 (2) EXCEPTION TO REQUIREMENT THAT CERTIFICATION BE TRANS-
25 MITTED 30 DAYS BEFORE CONVERSION.—The requirement under para-
26 graph (1) that the certification described in that paragraph must be
27 transmitted at least 30 days before conversion of the missile shall not
28 apply if the Secretary of Defense determines that compliance with that
29 requirement would be inconsistent with meeting immediate national se-
30 curity requirements.

31 (c) MISSILES REFERRED TO.—The missiles referred to in this section are
32 missiles owned by the United States that—

33 (1) were formerly used by the Department of Defense for national
34 defense purposes as intercontinental ballistic missiles; and

35 (2) have been declared excess to United States national defense
36 needs and are in compliance with international obligations of the
37 United States.

38 **CHAPTER 503—COMMERCIAL REUSABLE IN-SPACE**
39 **TRANSPORTATION**

Sec.

50301. Definitions.

50302. Loan guarantees for production of commercial reusable in-space transportation.

1 **§ 50301. Definitions**

2 In this chapter:

3 (1) **COMMERCIAL PROVIDER.**—The term “commercial provider”
4 means any person or entity providing commercial reusable in-orbit
5 space transportation services or systems, primary control of which is
6 held by persons other than the Federal Government, a State or local
7 government, or a foreign government.

8 (2) **IN-SPACE TRANSPORTATION SERVICES.**—The term “in-space
9 transportation services” means operations and activities involved in the
10 direct transportation or attempted transportation of a payload or object
11 from one orbit to another by means of an in-space transportation vehi-
12 cle.

13 (3) **IN-SPACE TRANSPORTATION SYSTEM.**—The term “in-space trans-
14 portation system” means the space and ground elements, including in-
15 space transportation vehicles and support space systems, and ground
16 administration and control facilities and associated equipment, nec-
17 essary for the provision of in-space transportation services.

18 (4) **IN-SPACE TRANSPORTATION VEHICLE.**—The term “in-space
19 transportation vehicle” means a vehicle designed—

20 (A) to be based and operated in space;

21 (B) to transport various payloads or objects from one orbit to
22 another orbit; and

23 (C) to be reusable and refueled in space.

24 (5) **SECRETARY.**—The term “Secretary” means the Secretary of De-
25 fense.

26 (6) **UNITED STATES COMMERCIAL PROVIDER.**—The term “United
27 States commercial provider” means any commercial provider organized
28 under the laws of the United States that is more than 50 percent
29 owned by United States nationals.

30 **§ 50302. Loan guarantees for production of commercial reus-**
31 **able in-space transportation**

32 (a) **AUTHORITY TO MAKE LOAN GUARANTEES.**—The Secretary may
33 guarantee loans made to eligible United States commercial providers for
34 purposes of producing commercial reusable in-space transportation services
35 or systems.

36 (b) **ELIGIBLE UNITED STATES COMMERCIAL PROVIDERS.**—The Secretary
37 shall prescribe requirements for the eligibility of United States commercial
38 providers for loan guarantees under this section. Such requirements shall
39 ensure that eligible providers are financially capable of undertaking a loan
40 guaranteed under this section.

1 (c) LIMITATION ON LOANS GUARANTEED.—The Secretary may not guar-
2 antee a loan for a United States commercial provider under this section un-
3 less the Secretary determines that credit would not otherwise be reasonably
4 available at the time of the guarantee for the commercial reusable in-space
5 transportation service or system to be produced utilizing the proceeds of the
6 loan.

7 (d) CREDIT SUBSIDY.—

8 (1) COLLECTION REQUIRED.—The Secretary shall collect from each
9 United States commercial provider receiving a loan guarantee under
10 this section an amount equal to the amount, as determined by the Sec-
11 retary, to cover the cost, as defined in section 502(5) of the Federal
12 Credit Reform Act of 1990 (2 U.S.C. 661a(5)), of the loan guarantee.

13 (2) PERIODIC DISBURSEMENTS.—In the case of a loan guarantee in
14 which proceeds of the loan are disbursed over time, the Secretary shall
15 collect the amount required under this subsection on a pro rata basis,
16 as determined by the Secretary, at the time of each disbursement.

17 (e) OTHER TERMS AND CONDITIONS.—

18 (1) PROHIBITION ON SUBORDINATION.—A loan guaranteed under
19 this section may not be subordinated to another debt contracted by the
20 United States commercial provider concerned, or to any other claims
21 against such provider.

22 (2) RESTRICTION ON INCOME.—A loan guaranteed under this section
23 may not—

24 (A) provide income which is excluded from gross income for
25 purposes of chapter 1 of the Internal Revenue Code of 1986 (26
26 U.S.C. 1 et seq.); or

27 (B) provide significant collateral or security, as determined by
28 the Secretary, for other obligations the income from which is so
29 excluded.

30 (3) TREATMENT OF GUARANTEE.—The guarantee of a loan under
31 this section shall be conclusive evidence of the following:

32 (A) That the guarantee has been properly obtained.

33 (B) That the loan qualifies for the guarantee.

34 (C) That, but for fraud or material misrepresentation by the
35 holder of the loan, the guarantee is valid, legal, and enforceable.

36 (4) OTHER TERMS AND CONDITIONS.—The Secretary may establish
37 any other terms and conditions for a guarantee of a loan under this
38 section as the Secretary considers appropriate to protect the financial
39 interests of the United States.

40 (f) ENFORCEMENT OF RIGHTS.—

1 (1) IN GENERAL.—The Attorney General may take any action the
 2 Attorney General considers appropriate to enforce any right accruing
 3 to the United States under a loan guarantee under this section.

4 (2) FORBEARANCE.—The Attorney General may, with the approval
 5 of the parties concerned, forbear from enforcing any right of the
 6 United States under a loan guaranteed under this section for the ben-
 7 efit of a United States commercial provider if such forbearance will not
 8 result in any cost, as defined in section 502(5) of the Federal Credit
 9 Reform Act of 1990 (2 U.S.C. 661a(5)), to the United States.

10 (3) UTILIZATION OF PROPERTY.—Notwithstanding any other provi-
 11 sion of law and subject to the terms of a loan guaranteed under this
 12 section, upon the default of a United States commercial provider under
 13 the loan, the Secretary may, at the election of the Secretary—

14 (A) assume control of the physical asset financed by the loan;
 15 and

16 (B) complete, recondition, reconstruct, renovate, repair, main-
 17 tain, operate, or sell the physical asset.

18 (g) CREDIT INSTRUMENTS.—

19 (1) AUTHORITY TO ISSUE INSTRUMENTS.—Notwithstanding any
 20 other provision of law, the Secretary may, subject to such terms and
 21 conditions as the Secretary considers appropriate, issue credit instru-
 22 ments to United States commercial providers of in-space transportation
 23 services or systems, with the aggregate cost (as determined under the
 24 provisions of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et
 25 seq.)) of such instruments not to exceed \$1,500,000,000, but only to
 26 the extent that new budget authority to cover such costs is provided
 27 in subsequent appropriations Acts or authority is otherwise provided in
 28 subsequent appropriations Acts.

29 (2) CREDIT SUBSIDY.—The Secretary shall provide a credit subsidy
 30 for any credit instrument issued under this subsection in accordance
 31 with the provisions of the Federal Credit Reform Act of 1990 (2 U.S.C.
 32 661 et seq.).

33 (3) CONSTRUCTION.—The eligibility of a United States commercial
 34 provider of in-space transportation services or systems for a credit in-
 35 strument under this subsection is in addition to any eligibility of such
 36 provider for a loan guarantee under other provisions of this section.

37 CHAPTER 505—COMMERCIAL SPACE COMPETITIVENESS

Sec.

50501. Definitions.

50502. Launch voucher demonstration program.

50503. Anchor tenancy and termination liability.

50504. Use of Government facilities.

50505. Test facilities.

50506. Commercial Space Achievement Award.

1 **§ 50501. Definitions**

2 In this chapter:

3 (1) AGENCY.—The term “agency” means an executive agency as de-
4 fined in section 105 of title 5.

5 (2) ANCHOR TENANCY.—The term “anchor tenancy” means an ar-
6 rangement in which the United States Government agrees to procure
7 sufficient quantities of a commercial space product or service needed
8 to meet Government mission requirements so that a commercial ven-
9 ture is made viable.

10 (3) COMMERCIAL.—The term “commercial” means having—

11 (A) private capital at risk; and

12 (B) primary financial and management responsibility for the ac-
13 tivity reside with the private sector.

14 (4) COST EFFECTIVE.—The term “cost effective” means costing no
15 more than the available alternatives, determined by a comparison of all
16 related direct and indirect costs including, in the case of Government
17 costs, applicable Government labor and overhead costs as well as con-
18 tractor charges, and taking into account the ability of each alternative
19 to accommodate mission requirements as well as the related factors of
20 risk, reliability, schedule, and technical performance.

21 (5) LAUNCH.—The term “launch” means to place, or attempt to
22 place, a launch vehicle and its payload, if any, in a suborbital trajec-
23 tory, in Earth orbit in outer space, or otherwise in outer space.

24 (6) LAUNCH SERVICES.—The term “launch services” means activi-
25 ties involved in the preparation of a launch vehicle and its payload for
26 launch and the conduct of a launch.

27 (7) LAUNCH SUPPORT FACILITIES.—The term “launch support fa-
28 cilities” means facilities located at launch sites or launch ranges that
29 are required to support launch activities, including launch vehicle as-
30 sembly, launch vehicle operations and control, communications, flight
31 safety functions, and payload operations, control, and processing.

32 (8) LAUNCH VEHICLE.—The term “launch vehicle” means any vehi-
33 cle constructed for the purpose of operating in or placing a payload in
34 outer space or in suborbital trajectories, and includes components of
35 that vehicle.

36 (9) PAYLOAD.—The term “payload” means an object which a person
37 undertakes to launch, and includes subcomponents of the launch vehicle
38 specifically designed or adapted for that object.

39 (10) PAYLOAD INTEGRATION SERVICES.—The term “payload inte-
40 gration services” means activities involved in integrating multiple pay-

1 loads into a single payload for launch or integrating a payload with a
2 launch vehicle.

3 (11) SPACE RECOVERY SUPPORT FACILITIES.—The term “space re-
4 recovery support facilities” means facilities required to support activities
5 related to the recovery of payloads returned from space to a space re-
6 recovery site, including operations and control, communications, flight
7 safety functions, and payload processing.

8 (12) SPACE TRANSPORTATION INFRASTRUCTURE.—The term “space
9 transportation infrastructure” means facilities, associated equipment,
10 and real property (including launch sites, launch support facilities,
11 space recovery sites, and space recovery support facilities) required to
12 perform launch or space recovery activities.

13 (13) STATE.—The term “State” means the several States, the Dis-
14 trict of Columbia, Puerto Rico, American Samoa, the United States
15 Virgin Islands, Guam, the Northern Mariana Islands, and any other
16 commonwealth, territory, or possession of the United States.

17 (14) UNITED STATES.—The term “United States” means the States,
18 collectively.

19 **§ 50502. Launch voucher demonstration program**

20 (a) REQUIREMENT TO ESTABLISH PROGRAM.—The Administrator shall
21 establish a demonstration program to award vouchers for the payment of
22 commercial launch services and payload integration services for the purpose
23 of launching payloads funded by the Administration.

24 (b) AWARD OF VOUCHERS.—The Administrator shall award vouchers
25 under subsection (a) to appropriate individuals as a part of grants adminis-
26 tered by the Administration for the launch of—

- 27 (1) payloads to be placed in suborbital trajectories; and
- 28 (2) small payloads to be placed in orbit.

29 (c) ASSISTANCE.—The Administrator may provide voucher award recipi-
30 ents with such assistance (including contract formulation and technical sup-
31 port during the proposal evaluation) as may be necessary to ensure the pur-
32 chase of cost effective and reasonably reliable commercial launch services
33 and payload integration services.

34 **§ 50503. Anchor tenancy and termination liability**

35 (a) ANCHOR TENANCY CONTRACTS.—Subject to appropriations, the Ad-
36 ministrator or the Administrator of the National Oceanic and Atmospheric
37 Administration may enter into multiyear anchor tenancy contracts for the
38 purchase of a good or service if the appropriate Administrator determines
39 that—

1 (1) the good or service meets the mission requirements of the Admin-
2 stration or the National Oceanic and Atmospheric Administration, as
3 appropriate;

4 (2) the commercially procured good or service is cost effective;

5 (3) the good or service is procured through a competitive process;

6 (4) existing or potential customers for the good or service other than
7 the United States Government have been specifically identified;

8 (5) the long-term viability of the venture is not dependent upon a
9 continued Government market or other nonreimbursable Government
10 support; and

11 (6) private capital is at risk in the venture.

12 (b) TERMINATION LIABILITY.—

13 (1) IN GENERAL.—Contracts entered into under subsection (a) may
14 provide for the payment of termination liability in the event that the
15 Government terminates such contracts for its convenience.

16 (2) FIXED SCHEDULE OF PAYMENTS AND LIMITATION ON LIABIL-
17 ITY.—Contracts that provide for the payment of termination liability,
18 as described in paragraph (1), shall include a fixed schedule of such
19 termination liability payments. Liability under such contracts shall not
20 exceed the total payments which the Government would have made
21 after the date of termination to purchase the good or service if the con-
22 tract were not terminated.

23 (3) USE OF FUNDS.—Subject to appropriations, funds available for
24 such termination liability payments may be used for purchase of the
25 good or service upon successful delivery of the good or service pursuant
26 to the contract. In such case, sufficient funds shall remain available to
27 cover any remaining termination liability.

28 (c) LIMITATIONS.—

29 (1) DURATION.—Contracts entered into under this section shall not
30 exceed 10 years in duration.

31 (2) FIXED PRICE.—Such contracts shall provide for delivery of the
32 good or service on a firm, fixed price basis.

33 (3) PERFORMANCE SPECIFICATIONS.—To the extent practicable, rea-
34 sonable performance specifications shall be used to define technical re-
35 quirements in such contracts.

36 (4) FAILURE TO PERFORM.—In any such contract, the appropriate
37 Administrator shall reserve the right to completely or partially termi-
38 nate the contract without payment of such termination liability because
39 of the contractor's actual or anticipated failure to perform its contrac-
40 tual obligations.

§ 50504. Use of Government facilities

(a) AUTHORITY.—

(1) IN GENERAL.—Federal agencies, including the Administration and the Department of Defense, may allow non-Federal entities to use their space-related facilities on a reimbursable basis if the Administrator, the Secretary of Defense, or the appropriate agency head determines that—

(A) the facilities will be used to support commercial space activities;

(B) such use can be supported by existing or planned Federal resources;

(C) such use is compatible with Federal activities;

(D) equivalent commercial services are not available on reasonable terms; and

(E) such use is consistent with public safety, national security, and international treaty obligations.

(2) CONSULTATION.—In carrying out paragraph (1)(E), each agency head shall consult with appropriate Federal officials.

(b) REIMBURSEMENT PAYMENT.—

(1) AMOUNT.—The reimbursement referred to in subsection (a) may be an amount equal to the direct costs (including salaries of United States civilian and contractor personnel) incurred by the United States as a result of the use of such facilities by the private sector. For the purposes of this paragraph, the term “direct costs” means the actual costs that can be unambiguously associated with such use, and would not be borne by the United States Government in the absence of such use.

(2) CREDIT TO APPROPRIATION.—The amount of any payment received by the United States for use of facilities under this subsection shall be credited to the appropriation from which the cost of providing such facilities was paid.

§ 50505. Test facilities

(a) CHARGES.—The Administrator shall establish a policy of charging users of the Administration’s test facilities for the costs associated with their tests at a level that is competitive with alternative test facilities. The Administrator shall not implement a policy of seeking full cost recovery for a facility until at least 30 days after transmitting a notice to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(b) FUNDING ACCOUNT.—In planning and budgeting, the Administrator shall establish a funding account that shall be used for all test facilities.

1 The account shall be sufficient to maintain the viability of test facilities dur-
2 ing periods of low utilization.

3 **§ 50506. Commercial Space Achievement Award**

4 (a) ESTABLISHMENT.—There is established a Commercial Space Achieve-
5 ment Award. The award shall consist of a medal, which shall be of such
6 design and materials and bear such inscriptions as determined by the Sec-
7 retary of Commerce. A cash prize may also be awarded if funding for the
8 prize is available under subsection (d).

9 (b) CRITERIA FOR AWARD.—The Secretary of Commerce shall periodi-
10 cally make awards under this section to individuals, corporations, corporate
11 divisions, or corporate subsidiaries substantially engaged in commercial
12 space activities that in the opinion of the Secretary of Commerce best meet
13 the following criteria:

14 (1) NON-GOVERNMENTAL REVENUE.—For corporate entities, at least
15 half of the revenues from the space-related activities of the corporation,
16 division, or subsidiary is derived from sources other than the United
17 States Government.

18 (2) SUBSTANTIAL CONTRIBUTION.—The activities and achievements
19 of the individual, corporation, division, or subsidiary have substantially
20 contributed to the United States gross national product and the stature
21 of United States industry in international markets, with due consider-
22 ation for both the economic magnitude and the technical quality of the
23 activities and achievements.

24 (3) SUBSTANTIAL ADVANCEMENT OF TECHNOLOGY.—The individual,
25 corporation, division, or subsidiary has substantially advanced space
26 technology and space applications directly related to commercial space
27 activities.

28 (c) LIMITATIONS.—No individual or corporate entity may receive an
29 award under this section more than once every 5 years.

30 (d) FUNDING FOR AWARD.—The Secretary of Commerce may seek and
31 accept gifts of money from public and private sources for the purpose of
32 making cash prize awards under this section. Such money may be used only
33 for that purpose, and only such money may be used for that purpose. The
34 Secretary of Commerce shall make publicly available an itemized list of the
35 sources of such funding.

36 **CHAPTER 507—OFFICE OF SPACE COMMERCIALIZATION**

Sec.

50701. Definition of Office.

50702. Establishment.

50703. Annual report.

1 **§ 50701. Definition of Office**

2 In this chapter, the term “Office” means the Office of Space Commer-
3 cialization established in section 50702 of this title.

4 **§ 50702. Establishment**

5 (a) IN GENERAL.—There is established within the Department of Com-
6 merce an Office of Space Commercialization.

7 (b) DIRECTOR.—The Office shall be headed by a Director, who shall be
8 a senior executive and shall be compensated at a level in the Senior Execu-
9 tive Service under section 5382 of title 5 as determined by the Secretary
10 of Commerce.

11 (c) FUNCTIONS OF OFFICE.—The Office shall be the principal unit for
12 the coordination of space-related issues, programs, and initiatives within the
13 Department of Commerce.

14 (d) DUTIES OF DIRECTOR.—The primary responsibilities of the Director
15 in carrying out the functions of the Office shall include—

16 (1) promoting commercial provider investment in space activities by
17 collecting, analyzing, and disseminating information on space markets,
18 and conducting workshops and seminars to increase awareness of com-
19 mercial space opportunities;

20 (2) assisting United States commercial providers in the efforts of
21 those providers to conduct business with the United States Govern-
22 ment;

23 (3) acting as an industry advocate within the executive branch of the
24 Federal Government to ensure that the Federal Government meets the
25 space-related requirements of the Federal Government, to the fullest
26 extent feasible, using commercially available space goods and services;

27 (4) ensuring that the United States Government does not compete
28 with United States commercial providers in the provision of space hard-
29 ware and services otherwise available from United States commercial
30 providers;

31 (5) promoting the export of space-related goods and services;

32 (6) representing the Department of Commerce in the development of
33 United States policies and in negotiations with foreign countries to en-
34 sure free and fair trade internationally in the area of space commerce;
35 and

36 (7) seeking the removal of legal, policy, and institutional impedi-
37 ments to space commerce.

38 **§ 50703. Annual report**

39 The Secretary of Commerce shall submit an annual report on the activi-
40 ties of the Office, including planned programs and expenditures, to the

1 Committee on Commerce, Science, and Transportation of the Senate and
2 the Committee on Science and Technology of the House of Representatives.

3 **Subtitle VI—Earth Observations**

4 **CHAPTER 601—LAND REMOTE SENSING POLICY**

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5 SUBCHAPTER I—GENERAL

6 **§ 60101. Definitions**

7 In this chapter:

8 (1) **COST OF FULFILLING USER REQUESTS.**—The term “cost of ful-
9 filling user requests” means the incremental costs associated with pro-
10 viding product generation, reproduction, and distribution of
11 unenhanced data in response to user requests and shall not include any
12 acquisition, amortization, or depreciation of capital assets originally
13 paid for by the United States Government or other costs not specifi-
14 cally attributable to fulfilling user requests.

15 (2) **DATA CONTINUITY.**—The term “data continuity” means the con-
16 tinued acquisition and availability of unenhanced data which are, from
17 the point of view of the user—

1 (A) sufficiently consistent (in terms of acquisition geometry,
2 coverage characteristics, and spectral characteristics) with previous
3 Landsat data to allow comparisons for global and regional change
4 detection and characterization; and

5 (B) compatible with such data and with methods used to receive
6 and process such data.

7 (3) DATA PREPROCESSING.—The term “data preprocessing”—

8 (A) may include—

9 (i) rectification of system and sensor distortions in land re-
10 mote sensing data as it is received directly from the satellite
11 in preparation for delivery to a user;

12 (ii) registration of such data with respect to features of the
13 Earth; and

14 (iii) calibration of spectral response with respect to such
15 data; but

16 (B) does not include conclusions, manipulations, or calculations
17 derived from such data, or a combination of such data with other
18 data.

19 (4) LAND REMOTE SENSING.—The term “land remote sensing”
20 means the collection of data which can be processed into imagery of
21 surface features of the Earth from an unclassified satellite or satellites,
22 other than an operational United States Government weather satellite.

23 (5) LANDSAT PROGRAM MANAGEMENT.—The term “Landsat Pro-
24 gram Management” means the integrated program management struc-
25 ture—

26 (A) established by, and responsible to, the Administrator and
27 the Secretary of Defense pursuant to section 60111(a) of this
28 title; and

29 (B) consisting of appropriate officers and employees of the Ad-
30 ministration, the Department of Defense, and any other United
31 States Government agencies the President designates as respon-
32 sible for the Landsat program.

33 (6) LANDSAT SYSTEM.—The term “Landsat system” means
34 Landsats 1, 2, 3, 4, 5, and 6, and any follow-on land remote sensing
35 system operated and owned by the United States Government, along
36 with any related ground equipment, systems, and facilities owned by
37 the United States Government.

38 (7) LANDSAT 6 CONTRACTOR.—The term “Landsat 6 contractor”
39 means the private sector entity which was awarded the contract for
40 spacecraft construction, operations, and data marketing rights for the
41 Landsat 6 spacecraft.

1 (8) LANDSAT 7.—The term “Landsat 7” means the follow-on sat-
2 ellite to Landsat 6.

3 (9) NATIONAL SATELLITE LAND REMOTE SENSING DATA ARCHIVE.—
4 The term “National Satellite Land Remote Sensing Data Archive”
5 means the archive established by the Secretary of the Interior pursuant
6 to the archival responsibilities defined in section 60142 of this title.

7 (10) NONCOMMERCIAL PURPOSES.—The term “noncommercial pur-
8 poses” means activities undertaken by individuals or entities on the
9 condition, upon receipt of unenhanced data, that—

10 (A) such data shall not be used in connection with any bid for
11 a commercial contract, development of a commercial product, or
12 any other non-United States Government activity that is expected,
13 or has the potential, to be profitmaking;

14 (B) the results of such activities are disclosed in a timely and
15 complete fashion in the open technical literature or other method
16 of public release, except when such disclosure by the United States
17 Government or its contractors would adversely affect the national
18 security or foreign policy of the United States or violate a provi-
19 sion of law or regulation; and

20 (C) such data shall not be distributed in competition with
21 unenhanced data provided by the Landsat 6 contractor.

22 (11) SECRETARY.—The term “Secretary” means the Secretary of
23 Commerce.

24 (12) UNENHANCED DATA.—The term “unenhanced data” means
25 land remote sensing signals or imagery products that are unprocessed
26 or subject only to data preprocessing.

27 (13) UNITED STATES GOVERNMENT AND ITS AFFILIATED USERS.—
28 The term “United States Government and its affiliated users” means—

29 (A) United States Government agencies;

30 (B) researchers involved with the United States Global Change
31 Research Program and its international counterpart programs;
32 and

33 (C) other researchers and international entities that have signed
34 with the United States Government a cooperative agreement in-
35 volving the use of Landsat data for noncommercial purposes.

36 SUBCHAPTER II—LANDSAT

37 § 60111. Landsat Program Management

38 (a) ESTABLISHMENT.—The Administrator and the Secretary of Defense
39 shall be responsible for management of the Landsat program. Such respon-
40 sibility shall be carried out by establishing an integrated program manage-
41 ment structure for the Landsat system.

1 (b) MANAGEMENT PLAN.—The Administrator, the Secretary of Defense,
2 and any other United States Government official the President designates
3 as responsible for part of the Landsat program shall establish, through a
4 management plan, the roles, responsibilities, and funding expectations for
5 the Landsat program of the appropriate United States Government agen-
6 cies. The management plan shall—

7 (1) specify that the fundamental goal of the Landsat Program Man-
8 agement is the continuity of unenhanced Landsat data through the ac-
9 quisition and operation of a Landsat 7 satellite as quickly as prac-
10 ticable which is, at a minimum, functionally equivalent to the Landsat
11 6 satellite, with the addition of a tracking and data relay satellite com-
12 munications capability;

13 (2) include a baseline funding profile that—

14 (A) is mutually acceptable to the Administration and the De-
15 partment of Defense for the period covering the development and
16 operation of Landsat 7; and

17 (B) provides for total funding responsibility of the Administra-
18 tion and the Department of Defense, respectively, to be approxi-
19 mately equal to the funding responsibility of the other as spread
20 across the development and operational life of Landsat 7;

21 (3) specify that any improvements over the Landsat 6 functional
22 equivalent capability for Landsat 7 will be funded by a specific spon-
23 soring agency or agencies, in a manner agreed to by the Landsat Pro-
24 gram Management, if the required funding exceeds the baseline funding
25 profile required by paragraph (2), and that additional improvements
26 will be sought only if the improvements will not jeopardize data con-
27 tinuity; and

28 (4) provide for a technology demonstration program whose objective
29 shall be the demonstration of advanced land remote sensing tech-
30 nologies that may potentially yield a system which is less expensive to
31 build and operate, and more responsive to data users, than is the cur-
32 rent Landsat system.

33 (c) RESPONSIBILITIES.—The Landsat Program Management shall be re-
34 sponsible for—

35 (1) Landsat 7 procurement, launch, and operations;

36 (2) ensuring that the operation of the Landsat system is responsive
37 to the broad interests of the civilian, national security, commercial, and
38 foreign users of the Landsat system;

39 (3) ensuring that all unenhanced Landsat data remain unclassified
40 and that, except as provided in subsections (a) and (b) of section

1 60146 of this title, no restrictions are placed on the availability of
2 unenhanced data;

3 (4) ensuring that land remote sensing data of high priority locations
4 will be acquired by the Landsat 7 system as required to meet the needs
5 of the United States Global Change Research Program, as established
6 in the Global Change Research Act of 1990 (15 U.S.C. 2921 et seq.),
7 and to meet the needs of national security users;

8 (5) Landsat data responsibilities pursuant to this chapter;

9 (6) oversight of Landsat contracts entered into under sections 102
10 and 103 of the Land Remote Sensing Policy Act of 1992 (Public Law
11 102–555, 106 Stat. 4168);

12 (7) coordination of a technology demonstration program pursuant to
13 section 60133 of this title; and

14 (8) ensuring that copies of data acquired by the Landsat system are
15 provided to the National Satellite Land Remote Sensing Data Archive.

16 (d) **AUTHORITY TO CONTRACT.**—The Landsat Program Management
17 may, subject to appropriations and only under the existing contract author-
18 ity of the United States Government agencies that compose the Landsat
19 Program Management, enter into contracts with the private sector for serv-
20 ices such as satellite operations and data preprocessing.

21 (e) **LANDSAT ADVISORY PROCESS.**—

22 (1) **ADVICE AND COMMENTS.**—The Landsat Program Management
23 shall seek impartial advice and comments regarding the status, effec-
24 tiveness, and operation of the Landsat system, using existing advisory
25 committees and other appropriate mechanisms. Such advice shall be
26 sought from individuals who represent—

27 (A) a broad range of perspectives on basic and applied science
28 and operational needs with respect to land remote sensing data;

29 (B) the full spectrum of users of Landsat data, including rep-
30 resentatives from United States Government agencies, State and
31 local government agencies, academic institutions, nonprofit organi-
32 zations, value-added companies, the agricultural, mineral extrac-
33 tion, and other user industries, and the public; and

34 (C) a broad diversity of age groups, sexes, and races.

35 (2) **REPORTS.**—The Landsat Program Management shall prepare
36 and submit biennially a report to Congress which—

37 (A) reports the public comments received pursuant to paragraph
38 (1); and

39 (B) includes—

40 (i) a response to the public comments received pursuant to
41 paragraph (1);

1 (ii) information on the volume of use, by category, of data
2 from the Landsat system; and

3 (iii) any recommendations for policy or programmatic
4 changes to improve the utility and operation of the Landsat
5 system.

6 **§ 60112. Transfer of Landsat 6 program responsibilities**

7 The responsibilities of the Secretary with respect to Landsat 6 shall be
8 transferred to the Landsat Program Management, as agreed to between the
9 Secretary and the Landsat Program Management, pursuant to section
10 60111 of this title.

11 **§ 60113. Data policy for Landsat 7**

12 (a) LANDSAT 7 DATA POLICY.—The Landsat Program Management, in
13 consultation with other appropriate United States Government agencies,
14 shall develop a data policy for Landsat 7 which should—

15 (1) ensure that unenhanced data are available to all users at the cost
16 of fulfilling user requests;

17 (2) ensure timely and dependable delivery of unenhanced data to the
18 full spectrum of civilian, national security, commercial, and foreign
19 users and the National Satellite Land Remote Sensing Data Archive;

20 (3) ensure that the United States retains ownership of all
21 unenhanced data generated by Landsat 7;

22 (4) support the development of the commercial market for remote
23 sensing data;

24 (5) ensure that the provision of commercial value-added services
25 based on remote sensing data remains exclusively the function of the
26 private sector; and

27 (6) to the extent possible, ensure that the data distribution system
28 for Landsat 7 is compatible with the Earth Observing System Data
29 and Information System.

30 (b) ADDITIONAL DATA POLICY CONSIDERATIONS.—In addition, the data
31 policy for Landsat 7 may provide for—

32 (1) United States private sector entities to operate ground receiving
33 stations in the United States for Landsat 7 data;

34 (2) other means for direct access by private sector entities to
35 unenhanced data from Landsat 7; and

36 (3) the United States Government to charge a per image fee, license
37 fee, or other such fee to entities operating ground receiving stations or
38 distributing Landsat 7 data.

1 SUBCHAPTER III—LICENSING OF PRIVATE REMOTE SENSING
2 SPACE SYSTEMS

3 **§ 60121. General licensing authority**

4 (a) LICENSING AUTHORITY OF SECRETARY.—

5 (1) IN GENERAL.—In consultation with other appropriate United
6 States Government agencies, the Secretary is authorized to license pri-
7 vate sector parties to operate private remote sensing space systems for
8 such period as the Secretary may specify and in accordance with the
9 provisions of this subchapter.

10 (2) LIMITATION WITH RESPECT TO SYSTEM USED FOR OTHER PUR-
11 POSSES.—In the case of a private space system that is used for remote
12 sensing and other purposes, the authority of the Secretary under this
13 subchapter shall be limited only to the remote sensing operations of
14 such space system.

15 (b) COMPLIANCE WITH LAW, REGULATIONS, INTERNATIONAL OBLIGA-
16 TIONS, AND NATIONAL SECURITY.—

17 (1) IN GENERAL.—No license shall be granted by the Secretary un-
18 less the Secretary determines in writing that the applicant will comply
19 with the requirements of this chapter, any regulations issued pursuant
20 to this chapter, and any applicable international obligations and na-
21 tional security concerns of the United States.

22 (2) LIST OF REQUIREMENTS FOR COMPLETE APPLICATION.—The
23 Secretary shall publish in the Federal Register a complete and specific
24 list of all information required to comprise a complete application for
25 a license under this subchapter. An application shall be considered
26 complete when the applicant has provided all information required by
27 the list most recently published in the Federal Register before the date
28 the application was first submitted. Unless the Secretary has, within
29 30 days after receipt of an application, notified the applicant of infor-
30 mation necessary to complete an application, the Secretary may not
31 deny the application on the basis of the absence of any such infor-
32 mation.

33 (c) DEADLINE FOR ACTION ON APPLICATION.—The Secretary shall re-
34 view any application and make a determination thereon within 120 days of
35 the receipt of such application. If final action has not occurred within such
36 time, the Secretary shall inform the applicant of any pending issues and of
37 actions required to resolve them.

38 (d) IMPROPER BASIS FOR DENIAL.—The Secretary shall not deny such
39 license in order to protect any existing licensee from competition.

40 (e) REQUIREMENT TO PROVIDE UNENHANCED DATA.—

1 (1) DESIGNATION OF DATA.—The Secretary, in consultation with
2 other appropriate United States Government agencies and pursuant to
3 paragraph (2), shall designate in a license issued pursuant to this sub-
4 chapter any unenhanced data required to be provided by the licensee
5 under section 60122(b)(3) of this title.

6 (2) PRELIMINARY DETERMINATION.—The Secretary shall make a
7 designation under paragraph (1) after determining that—

8 (A) such data are generated by a system for which all or a sub-
9 substantial part of the development, fabrication, launch, or operations
10 costs have been or will be directly funded by the United States
11 Government; or

12 (B) it is in the interest of the United States to require such
13 data to be provided by the licensee consistent with section
14 60122(b)(3) of this title, after considering the impact on the li-
15 censee and the importance of promoting widespread access to re-
16 mote sensing data from United States and foreign systems.

17 (3) CONSISTENCY WITH CONTRACT OR OTHER ARRANGEMENT.—A
18 designation made by the Secretary under paragraph (1) shall not be
19 inconsistent with any contract or other arrangement entered into be-
20 tween a United States Government agency and the licensee.

21 **§ 60122. Conditions for operation**

22 (a) LICENSE REQUIRED FOR OPERATION.—No person that is subject to
23 the jurisdiction or control of the United States may, directly or through any
24 subsidiary or affiliate, operate any private remote sensing space system
25 without a license pursuant to section 60121 of this title.

26 (b) LICENSING REQUIREMENTS.—Any license issued pursuant to this
27 subchapter shall specify that the licensee shall comply with all of the re-
28 quirements of this chapter and shall—

29 (1) operate the system in such manner as to preserve the national
30 security of the United States and to observe the international obliga-
31 tions of the United States in accordance with section 60146 of this
32 title;

33 (2) make available to the government of any country (including the
34 United States) unenhanced data collected by the system concerning the
35 territory under the jurisdiction of such government as soon as such
36 data are available and on reasonable terms and conditions;

37 (3) make unenhanced data designated by the Secretary in the license
38 pursuant to section 60121(e) of this title available in accordance with
39 section 60141 of this title;

40 (4) upon termination of operations under the license, make disposi-
41 tion of any satellites in space in a manner satisfactory to the President;

1 (5) furnish the Secretary with complete orbit and data collection
2 characteristics of the system, and inform the Secretary immediately of
3 any deviation; and

4 (6) notify the Secretary of any significant or substantial agreement
5 the licensee intends to enter with a foreign nation, entity, or consor-
6 tium involving foreign nations or entities.

7 (c) ADDITIONAL LICENSING REQUIREMENTS FOR LANDSAT 6 CON-
8 TRACTOR.—In addition to the requirements of subsection (b), any license
9 issued pursuant to this subchapter to the Landsat 6 contractor shall specify
10 that the Landsat 6 contractor shall—

11 (1) notify the Secretary of any value added activities (as defined by
12 the Secretary by regulation) that will be conducted by the Landsat 6
13 contractor or by a subsidiary or affiliate; and

14 (2) if such activities are to be conducted, provide the Secretary with
15 a plan for compliance with section 60141 of this title.

16 **§ 60123. Administrative authority of Secretary**

17 (a) FUNCTIONS.—In order to carry out the responsibilities specified in
18 this subchapter, the Secretary may—

19 (1) grant, condition, or transfer licenses under this chapter;

20 (2) seek an order of injunction or similar judicial determination from
21 a district court of the United States with personal jurisdiction over the
22 licensee to terminate, modify, or suspend licenses under this subchapter
23 and to terminate licensed operations on an immediate basis, if the Sec-
24 retary determines that the licensee has substantially failed to comply
25 with any provisions of this chapter, with any terms, conditions, or re-
26 strictions of such license, or with any international obligations or na-
27 tional security concerns of the United States;

28 (3) provide penalties for noncompliance with the requirements of li-
29 censes or regulations issued under this subchapter, including civil pen-
30 alties not to exceed \$10,000 (each day of operation in violation of such
31 licenses or regulations constituting a separate violation);

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

33 (5) issue subpoenas for any materials, documents, or records, or for
34 the attendance and testimony of witnesses for the purpose of con-
35 ducting a hearing under this section;

36 (6) seize any object, record, or report pursuant to a warrant from
37 a magistrate based on a showing of probable cause to believe that such
38 object, record, or report was used, is being used, or is likely to be used
39 in violation of this chapter or the requirements of a license or regula-
40 tion issued thereunder; and

1 (7) make investigations and inquiries and administer to or take from
2 any person an oath, affirmation, or affidavit concerning any matter re-
3 lating to the enforcement of this chapter.

4 (b) REVIEW OF AGENCY ACTION.—Any applicant or licensee that makes
5 a timely request for review of an adverse action pursuant to paragraph (1),
6 (3), (5), or (6) of subsection (a) shall be entitled to adjudication by the Sec-
7 retary on the record after an opportunity for any agency hearing with re-
8 spect to such adverse action. Any final action by the Secretary under this
9 subsection shall be subject to judicial review under chapter 7 of title 5.

10 **§ 60124. Regulatory authority of Secretary**

11 The Secretary may issue regulations to carry out this subchapter. Such
12 regulations shall be promulgated only after public notice and comment in
13 accordance with the provisions of section 553 of title 5.

14 **§ 60125. Agency activities**

15 (a) LICENSE APPLICATION AND ISSUANCE.—A private sector party may
16 apply for a license to operate a private remote sensing space system which
17 utilizes, on a space-available basis, a civilian United States Government sat-
18 ellite or vehicle as a platform for such system. The Secretary, pursuant to
19 this subchapter, may license such system if it meets all conditions of this
20 subchapter and—

21 (1) the system operator agrees to reimburse the Government in a
22 timely manner for all related costs incurred with respect to such utili-
23 zation, including a reasonable and proportionate share of fixed, plat-
24 form, data transmission, and launch costs; and

25 (2) such utilization would not interfere with or otherwise compromise
26 intended civilian Government missions, as determined by the agency re-
27 sponsible for such civilian platform.

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

30 (c) AGREEMENTS.—To the extent provided in advance by appropriation
31 Acts, any United States Government agency may enter into agreements for
32 such utilization if such agreements are consistent with such agency's mis-
33 sion and statutory authority, and if such remote sensing space system is li-
34 censed by the Secretary before commencing operation.

35 (d) APPLICABILITY.—This section does not apply to activities carried out
36 under subchapter IV.

37 (e) EFFECT ON FCC AUTHORITY.—Nothing in this subchapter shall af-
38 fect the authority of the Federal Communications Commission pursuant to
39 the Communications Act of 1934 (47 U.S.C. 151 et seq.).

1 SUBCHAPTER IV—RESEARCH, DEVELOPMENT, AND
2 DEMONSTRATION

3 **§ 60131. Continued Federal research and development**

4 (a) ROLES OF ADMINISTRATION AND DEPARTMENT OF DEFENSE.—

5 (1) IN GENERAL.—The Administrator and the Secretary of Defense
6 are directed to continue and to enhance programs of remote sensing
7 research and development.

8 (2) ADMINISTRATION ACTIVITIES AUTHORIZED AND ENCOURAGED.—
9 The Administrator is authorized and encouraged to—

10 (A) conduct experimental space remote sensing programs (in-
11 cluding applications demonstration programs and basic research at
12 universities);

13 (B) develop remote sensing technologies and techniques, includ-
14 ing those needed for monitoring the Earth and its environment;
15 and

16 (C) conduct such research and development in cooperation with
17 other United States Government agencies and with public and pri-
18 vate research entities (including private industry, universities, non-
19 profit organizations, State and local governments, foreign govern-
20 ments, and international organizations) and to enter into arrange-
21 ments (including joint ventures) which will foster such coopera-
22 tion.

23 (b) ROLES OF DEPARTMENT OF AGRICULTURE AND DEPARTMENT OF
24 THE INTERIOR.—

25 (1) IN GENERAL.—In order to enhance the ability of the United
26 States to manage and utilize its renewable and nonrenewable resources,
27 the Secretary of Agriculture and the Secretary of the Interior are au-
28 thorized and encouraged to conduct programs of research and develop-
29 ment in the applications of remote sensing using funds appropriated
30 for such purposes.

31 (2) ACTIVITIES THAT MAY BE INCLUDED.—Such programs may in-
32 clude basic research at universities, demonstrations of applications, and
33 cooperative activities involving other Government agencies, private sec-
34 tor parties, and foreign and international organizations.

35 (c) ROLE OF OTHER FEDERAL AGENCIES.—Other United States Govern-
36 ment agencies are authorized and encouraged to conduct research and devel-
37 opment on the use of remote sensing in the fulfillment of their authorized
38 missions, using funds appropriated for such purposes.

39 **§ 60132. Availability of federally gathered unenhanced data**

40 (a) IN GENERAL.—All unenhanced land remote sensing data gathered
41 and owned by the United States Government, including unenhanced data

1 gathered under the technology demonstration program carried out pursuant
2 to section 60133 of this title, shall be made available to users in a timely
3 fashion.

4 (b) PROTECTION FOR COMMERCIAL DATA DISTRIBUTOR.—The President
5 shall seek to ensure that unenhanced data gathered under the technology
6 demonstration program carried out pursuant to section 60133 of this title
7 shall, to the extent practicable, be made available on terms that would not
8 adversely affect the commercial market for unenhanced data gathered by
9 the Landsat 6 spacecraft.

10 **§ 60133. Technology demonstration program**

11 (a) ESTABLISHMENT.—As a fundamental component of a national land
12 remote sensing strategy, the President shall establish, through appropriate
13 United States Government agencies, a technology demonstration program.
14 The goals of the program shall be to—

15 (1) seek to launch advanced land remote sensing system components
16 within 5 years after October 28, 1992;

17 (2) demonstrate within such 5-year period advanced sensor capabili-
18 ties suitable for use in the anticipated land remote sensing program;
19 and

20 (3) demonstrate within such 5-year period an advanced land remote
21 sensing system design that could be less expensive to procure and oper-
22 ate than the Landsat system projected to be in operation through the
23 year 2000, and that therefore holds greater potential for private sector
24 investment and control.

25 (b) EXECUTION OF PROGRAM.—In executing the technology demonstra-
26 tion program, the President shall seek to apply technologies associated with
27 United States National Technical Means of intelligence gathering, to the ex-
28 tent that such technologies are appropriate for the technology demonstration
29 and can be declassified for such purposes without causing adverse harm to
30 United States national security interests.

31 (c) BROAD APPLICATION.—To the greatest extent practicable, the tech-
32 nology demonstration program established under subsection (a) shall be de-
33 signed to be responsive to the broad civilian, national security, commercial,
34 and foreign policy needs of the United States.

35 (d) PRIVATE SECTOR FUNDING.—The technology demonstration program
36 under this section may be carried out in part with private sector funding.

37 (e) LANDSAT PROGRAM MANAGEMENT COORDINATION.—The Landsat
38 Program Management shall have a coordinating role in the technology dem-
39 onstration program carried out under this section.

1 **§ 60134. Preference for private sector land remote sensing**
 2 **system**

3 (a) IN GENERAL.—If a successor land remote sensing system to Landsat
 4 7 can be funded and managed by the private sector while still achieving the
 5 goals stated in subsection (b) without jeopardizing the domestic, national se-
 6 curity, and foreign policy interests of the United States, preference should
 7 be given to the development of such a system by the private sector without
 8 competition from the United States Government.

9 (b) GOALS.—The goals referred to in subsection (a) are—

10 (1) to encourage the development, launch, and operation of a land
 11 remote sensing system that adequately serves the civilian, national se-
 12 curity, commercial, and foreign policy interests of the United States;

13 (2) to encourage the development, launch, and operation of a land
 14 remote sensing system that maintains data continuity with the Landsat
 15 system; and

16 (3) to incorporate system enhancements, including any such enhance-
 17 ments developed under the technology demonstration program under
 18 section 60133 of this title, which may potentially yield a system that
 19 is less expensive to build and operate, and more responsive to data
 20 users, than is the Landsat system otherwise projected to be in oper-
 21 ation in the future.

22 SUBCHAPTER V—GENERAL PROVISIONS

23 **§ 60141. Nondiscriminatory data availability**

24 (a) IN GENERAL.—Except as provided in subsection (b), any unenhanced
 25 data generated by the Landsat system or any other land remote sensing sys-
 26 tem funded and owned by the United States Government shall be made
 27 available to all users without preference, bias, or any other special arrange-
 28 ment (except on the basis of national security concerns pursuant to section
 29 60146 of this title) regarding delivery, format, pricing, or technical consid-
 30 erations which would favor one customer or class of customers over another.

31 (b) EXCEPTIONS.—Unenhanced data generated by the Landsat system or
 32 any other land remote sensing system funded and owned by the United
 33 States Government may be made available to the United States Government
 34 and its affiliated users at reduced prices, in accordance with this chapter,
 35 on the condition that such unenhanced data are used solely for noncomm-
 36 ercial purposes.

37 **§ 60142. Archiving of data**

38 (a) PUBLIC INTEREST.—It is in the public interest for the United States
 39 Government to—

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

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

5 (3) ensure the quality, integrity, and continuity of the archive.

6 (b) ARCHIVING PRACTICES.—The Secretary of the Interior, in consulta-
7 tion with the Landsat Program Management, shall provide for long-term
8 storage, maintenance, and upgrading of a basic, global, land remote sensing
9 data set (hereafter in this section referred to as the “basic data set”) and
10 shall follow reasonable archival practices to ensure proper storage and pres-
11 ervation of the basic data set and timely access for parties requesting data.

12 (c) DETERMINATION OF CONTENT OF BASIC DATA SET.—In determining
13 the initial content of, or in upgrading, the basic data set, the Secretary of
14 the Interior shall—

15 (1) use as a baseline the data archived on October 28, 1992;

16 (2) take into account future technical and scientific developments
17 and needs, paying particular attention to the anticipated data require-
18 ments of global environmental change research;

19 (3) consult with and seek the advice of users and producers of re-
20 mote sensing data and data products;

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

24 (5) include, as the Secretary of the Interior considers appropriate,
25 unenhanced data generated either by the Landsat system, pursuant to
26 subchapter II, or by licensees under subchapter III;

27 (6) include, as the Secretary of the Interior considers appropriate,
28 data collected by foreign ground stations or by foreign remote sensing
29 space systems; and

30 (7) ensure that the content of the archive is developed in accordance
31 with section 60146 of this title.

32 (d) PUBLIC DOMAIN.—After the expiration of any exclusive right to sell,
33 or after relinquishment of such right, the data provided to the National Sat-
34 ellite Land Remote Sensing Data Archive shall be in the public domain and
35 shall be made available to requesting parties by the Secretary of the Interior
36 at the cost of fulfilling user requests.

37 **§ 60143. Nonreproduction**

38 Unenhanced data distributed by any licensee under subchapter III may
39 be sold on the condition that such data will not be reproduced or dissemi-
40 nated by the purchaser for commercial purposes.

1 **§ 60144. Reimbursement for assistance**

2 The Administrator, the Secretary of Defense, and the heads of other
3 United States Government agencies may provide assistance to land remote
4 sensing system operators under the provisions of this chapter. Substantial
5 assistance shall be reimbursed by the operator, except as otherwise provided
6 by law.

7 **§ 60145. Acquisition of equipment**

8 The Landsat Program Management may, by means of a competitive pro-
9 cess, allow a licensee under subchapter III or any other private party to buy,
10 lease, or otherwise acquire the use of equipment from the Landsat system,
11 when such equipment is no longer needed for the operation of such system
12 or for the sale of data from such system. Officials of other United States
13 Government civilian agencies are authorized and encouraged to cooperate
14 with the Secretary in carrying out this section.

15 **§ 60146. Radio frequency allocation**

16 (a) APPLICATION TO FEDERAL COMMUNICATIONS COMMISSION.—To the
17 extent required by the Communications Act of 1934 (47 U.S.C. 151 et
18 seq.), an application shall be filed with the Federal Communications Com-
19 mission for any radio facilities involved with commercial remote sensing
20 space systems licensed under subchapter III.

21 (b) DEADLINE FOR FCC ACTION.—It is the intent of Congress that the
22 Federal Communications Commission complete the radio licensing process
23 under the Communications Act of 1934 (47 U.S.C. 151 et seq.), upon the
24 application of any private sector party or consortium operator of any com-
25 mercial land remote sensing space system subject to this chapter, within
26 120 days of the receipt of an application for such licensing. If final action
27 has not occurred within 120 days of the receipt of such an application, the
28 Federal Communications Commission shall inform the applicant of any
29 pending issues and of actions required to resolve them.

30 (c) DEVELOPMENT AND CONSTRUCTION OF UNITED STATES SYSTEMS.—
31 Authority shall not be required from the Federal Communications Commis-
32 sion for the development and construction of any United States land remote
33 sensing space system (or component thereof), other than radio transmitting
34 facilities or components, while any licensing determination is being made.

35 (d) CONSISTENCY WITH INTERNATIONAL OBLIGATIONS AND PUBLIC IN-
36 TEREST.—Frequency allocations made pursuant to this section by the Fed-
37 eral Communications Commission shall be consistent with international obli-
38 gations and with the public interest.

39 **§ 60147. Consultation**

40 (a) CONSULTATION WITH SECRETARY OF DEFENSE.—The Secretary and
41 the Landsat Program Management shall consult with the Secretary of De-

1 fense on all matters under this chapter affecting national security. The Sec-
 2 retary of Defense shall be responsible for determining those conditions, con-
 3 sistent with this chapter, necessary to meet national security concerns of the
 4 United States and for notifying the Secretary and the Landsat Program
 5 Management promptly of such conditions.

6 (b) CONSULTATION WITH SECRETARY OF STATE.—

7 (1) IN GENERAL.—The Secretary and the Landsat Program Man-
 8 agement shall consult with the Secretary of State on all matters under
 9 this chapter affecting international obligations. The Secretary of State
 10 shall be responsible for determining those conditions, consistent with
 11 this chapter, necessary to meet international obligations and policies of
 12 the United States and for notifying promptly the Secretary and the
 13 Landsat Program Management of such conditions.

14 (2) INTERNATIONAL AID.—Appropriate United States Government
 15 agencies are authorized and encouraged to provide remote sensing data,
 16 technology, and training to developing nations as a component of pro-
 17 grams of international aid.

18 (3) REPORTING DISCRIMINATORY DISTRIBUTION.—The Secretary of
 19 State shall promptly report to the Secretary and Landsat Program
 20 Management any instances outside the United States of discriminatory
 21 distribution of Landsat data.

22 (c) STATUS REPORT.—The Landsat Program Management shall, as often
 23 as necessary, provide to Congress complete and updated information about
 24 the status of ongoing operations of the Landsat system, including timely no-
 25 tification of decisions made with respect to the Landsat system in order to
 26 meet national security concerns and international obligations and policies of
 27 the United States Government.

28 (d) REIMBURSEMENTS.—If, as a result of technical modifications imposed
 29 on a licensee under subchapter III on the basis of national security con-
 30 cerns, the Secretary, in consultation with the Secretary of Defense or with
 31 other Federal agencies, determines that additional costs will be incurred by
 32 the licensee, or that past development costs (including the cost of capital)
 33 will not be recovered by the licensee, the Secretary may require the agency
 34 or agencies requesting such technical modifications to reimburse the licensee
 35 for such additional or development costs, but not for anticipated profits. Re-
 36 imbursements may cover costs associated with required changes in system
 37 performance, but not costs ordinarily associated with doing business abroad.

38 **§ 60148. Enforcement**

39 (a) IN GENERAL.—In order to ensure that unenhanced data from the
 40 Landsat system received solely for noncommercial purposes are not used for
 41 any commercial purpose, the Secretary (in collaboration with private sector

1 entities responsible for the marketing and distribution of unenhanced data
 2 generated by the Landsat system) shall develop and implement a system for
 3 enforcing this prohibition, in the event that unenhanced data from the
 4 Landsat system are made available for noncommercial purposes at a dif-
 5 ferent price than such data are made available for other purposes.

6 (b) AUTHORITY OF SECRETARY.—Subject to subsection (d), the Secretary
 7 may impose any of the enforcement mechanisms described in subsection (c)
 8 against a person that—

9 (1) receives unenhanced data from the Landsat system under this
 10 chapter solely for noncommercial purposes (and at a different price
 11 than the price at which such data are made available for other pur-
 12 poses); and

13 (2) uses such data for other than noncommercial purposes.

14 (c) ENFORCEMENT MECHANISMS.—Enforcement mechanisms referred to
 15 in subsection (b) may include civil penalties of not more than \$10,000 (per
 16 day per violation), denial of further unenhanced data purchasing privileges,
 17 and any other penalties or restrictions the Secretary considers necessary to
 18 ensure, to the greatest extent practicable, that unenhanced data provided
 19 for noncommercial purposes are not used to unfairly compete in the com-
 20 mercial market against private sector entities not eligible for data at the
 21 cost of fulfilling user requests.

22 (d) PROCEDURES AND REGULATIONS.—The Secretary shall issue any reg-
 23 ulations necessary to carry out this section and shall establish standards
 24 and procedures governing the imposition of enforcement mechanisms under
 25 subsection (b). The standards and procedures shall include a procedure for
 26 potentially aggrieved parties to file formal protests with the Secretary alleg-
 27 ing instances where such unenhanced data have been, or are being, used for
 28 commercial purposes in violation of the terms of receipt of such data. The
 29 Secretary shall promptly act to investigate any such protest, and shall re-
 30 port annually to Congress on instances of such violations.

31 SUBCHAPTER VI—PROHIBITION OF COMMERCIALIZATION OF
 32 WEATHER SATELLITES

33 **§ 60161. Prohibition**

34 Neither the President nor any other official of the Government shall make
 35 any effort to lease, sell, or transfer to the private sector, or commercialize,
 36 any portion of the weather satellite systems operated by the Department of
 37 Commerce or any successor agency.

38 **§ 60162. Future considerations**

39 Regardless of any change in circumstances subsequent to October 28,
 40 1992, even if such change makes it appear to be in the national interest
 41 to commercialize weather satellites, neither the President nor any official

1 shall take any action prohibited by section 60161 of this title unless this
2 subchapter has first been repealed.

3 **CHAPTER 603—REMOTE SENSING**

Sec.

- 60301. Definitions.
- 60302. General responsibilities.
- 60303. Pilot projects to encourage public sector applications.
- 60304. Program evaluation.
- 60305. Data availability.
- 60306. Education.

4 **§ 60301. Definitions**

5 In this chapter:

6 (1) **GEOSPATIAL INFORMATION.**—The term “geospatial information”
7 means knowledge of the nature and distribution of physical and cul-
8 tural features on the landscape based on analysis of data from airborne
9 or spaceborne platforms or other types and sources of data.

10 (2) **HIGH RESOLUTION.**—The term “high resolution” means resolu-
11 tion better than five meters.

12 (3) **INSTITUTION OF HIGHER EDUCATION.**—The term “institution of
13 higher education” has the meaning given the term in section 101(a)
14 of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

15 **§ 60302. General responsibilities**

16 The Administrator shall—

17 (1) develop a sustained relationship with the United States commer-
18 cial remote sensing industry and, consistent with applicable policies and
19 law, to the maximum practicable, rely on their services; and

20 (2) in conjunction with United States industry and universities, re-
21 search, develop, and demonstrate prototype Earth science applications
22 to enhance Federal, State, local, and tribal governments’ use of govern-
23 ment and commercial remote sensing data, technologies, and other
24 sources of geospatial information for improved decision support to ad-
25 dress their needs.

26 **§ 60303. Pilot projects to encourage public sector applica-**
27 **tions**

28 (a) **IN GENERAL.**—The Administrator shall establish a program of grants
29 for competitively awarded pilot projects to explore the integrated use of
30 sources of remote sensing and other geospatial information to address State,
31 local, regional, and tribal agency needs.

32 (b) **PREFERRED PROJECTS.**—In awarding grants under this section, the
33 Administrator shall give preference to projects that—

34 (1) make use of commercial data sets, including high resolution com-
35 mercial satellite imagery and derived satellite data products, existing

1 public data sets where commercial data sets are not available or appli-
2 cable, or the fusion of such data sets;

3 (2) integrate multiple sources of geospatial information, such as geo-
4 graphic information system data, satellite-provided positioning data,
5 and remotely sensed data, in innovative ways;

6 (3) include funds or in-kind contributions from non-Federal sources;

7 (4) involve the participation of commercial entities that process raw
8 or lightly processed data, often merging that data with other geospatial
9 information, to create data products that have significant value added
10 to the original data; and

11 (5) taken together demonstrate as diverse a set of public sector ap-
12 plications as possible.

13 (e) OPPORTUNITIES.—In carrying out this section, the Administrator
14 shall seek opportunities to assist—

15 (1) in the development of commercial applications potentially avail-
16 able from the remote sensing industry; and

17 (2) State, local, regional, and tribal agencies in applying remote
18 sensing and other geospatial information technologies for growth man-
19 agement.

20 (d) DURATION.—Assistance for a pilot project under subsection (a) shall
21 be provided for a period not to exceed 3 years.

22 (e) REPORT.—Each recipient of a grant under subsection (a) shall trans-
23 mit a report to the Administrator on the results of the pilot project within
24 180 days of the completion of that project.

25 (f) WORKSHOP.—Each recipient of a grant under subsection (a) shall, not
26 later than 180 days after the completion of the pilot project, conduct at
27 least one workshop for potential users to disseminate the lessons learned
28 from the pilot project as widely as feasible.

29 (g) REGULATIONS.—The Administrator shall issue regulations estab-
30 lishing application, selection, and implementation procedures for pilot
31 projects, and guidelines for reports and workshops required by this section.

32 **§ 60304. Program evaluation**

33 (a) ADVISORY COMMITTEE.—The Administrator shall establish an advi-
34 sory committee, consisting of individuals with appropriate expertise in State,
35 local, regional, and tribal agencies, the university research community, and
36 the remote sensing and other geospatial information industries, to monitor
37 the program established under section 60303 of this title. The advisory com-
38 mittee shall consult with the Federal Geographic Data Committee and other
39 appropriate industry representatives and organizations. Notwithstanding
40 section 14 of the Federal Advisory Committee Act (5 App. U.S.C.), the ad-

1 visory committee established under this subsection shall remain in effect
2 until the termination of the program under section 60303 of this title.

3 (b) **EFFECTIVENESS EVALUATION.**—Not later than December 31, 2009,
4 the Administrator shall transmit to Congress an evaluation of the effective-
5 ness of the program established under section 60303 of this title in explor-
6 ing and promoting the integrated use of sources of remote sensing and other
7 geospatial information to address State, local, regional, and tribal agency
8 needs. Such evaluation shall have been conducted by an independent entity.

9 **§ 60305. Data availability**

10 The Administrator shall ensure that the results of each of the pilot
11 projects completed under section 60303 of this title shall be retrievable
12 through an electronic, internet-accessible database.

13 **§ 60306. Education**

14 The Administrator shall establish an educational outreach program to in-
15 crease awareness at institutions of higher education and State, local, re-
16 gional, and tribal agencies of the potential applications of remote sensing
17 and other geospatial information and awareness of the need for geospatial
18 workforce development.

19 **CHAPTER 605—EARTH SCIENCE**

Sec.

60501. Goal.

60502. Transitioning experimental research into operational services.

60503. Reauthorization of Glory Mission.

60504. Tornadoes and other severe storms.

60505. Coordination with the National Oceanic and Atmospheric Administration.

60506. Sharing of climate related data.

20 **§ 60501. Goal**

21 The goal for the Administration’s Earth Science program shall be to pur-
22 sue a program of Earth observations, research, and applications activities
23 to better understand the Earth, how it supports life, and how human activi-
24 ties affect its ability to do so in the future. In pursuit of this goal, the Ad-
25 ministration’s Earth Science program shall ensure that securing practical
26 benefits for society will be an important measure of its success in addition
27 to securing new knowledge about the Earth system and climate change. In
28 further pursuit of this goal, the Administration shall, together with the Na-
29 tional Oceanic and Atmospheric Administration and other relevant agencies,
30 provide United States leadership in developing and carrying out a coopera-
31 tive international Earth observations-based research program.

32 **§ 60502. Transitioning experimental research into oper-**
33 **ational services**

34 (a) **INTERAGENCY PROCESS.**—The Director of the Office of Science and
35 Technology Policy, in consultation with the Administrator, the Adminis-
36 trator of the National Oceanic and Atmospheric Administration, and other

1 relevant stakeholders, shall develop a process to transition, when appro-
 2 priate, Administration Earth science and space weather missions or sensors
 3 into operational status. The process shall include coordination of annual
 4 agency budget requests as required to execute the transitions.

5 (b) RESPONSIBLE AGENCY OFFICIAL.—The Administrator and the Ad-
 6 ministrator of the National Oceanic and Atmospheric Administration shall
 7 each designate an agency official who shall have the responsibility for and
 8 authority to lead the Administration’s and the National Oceanic and Atmos-
 9 pheric Administration’s transition activities and interagency coordination.

10 (c) PLAN.—For each mission or sensor that is determined to be appro-
 11 priate for transition under subsection (a), the Administration and the Na-
 12 tional Oceanic and Atmospheric Administration shall transmit to Congress
 13 a joint plan for conducting the transition. The plan shall include the strat-
 14 egy, milestones, and budget required to execute the transition. The transi-
 15 tion plan shall be transmitted to Congress no later than 60 days after the
 16 successful completion of the mission or sensor critical design review.

17 **§ 60503. Reauthorization of Glory Mission**

18 Congress reauthorizes the Administration to continue with development of
 19 the Glory Mission, which will examine how aerosols and solar energy affect
 20 the Earth’s climate.

21 **§ 60504. Tornadoes and other severe storms**

22 The Administrator shall ensure that the Administration gives high pri-
 23 ority to those parts of its existing cooperative activities with the National
 24 Oceanic and Atmospheric Administration that are related to the study of
 25 tornadoes and other severe storms, tornado-force winds, and other factors
 26 determined to influence the development of tornadoes and other severe
 27 storms, with the goal of improving the Nation’s ability to predict tornados
 28 and other severe storms. Further, the Administrator shall examine whether
 29 there are additional cooperative activities with the National Oceanic and At-
 30 mospheric Administration that should be undertaken in the area of tornado
 31 and severe storm research.

32 **§ 60505. Coordination with the National Oceanic and Atmos-
 33 pheric Administration**

34 (a) JOINT WORKING GROUP.—The Administrator and the Administrator
 35 of the National Oceanic and Atmospheric Administration shall appoint a
 36 Joint Working Group, which shall review and monitor missions of the two
 37 agencies to ensure maximum coordination in the design, operation, and
 38 transition of missions where appropriate. The Joint Working Group shall
 39 also prepare the plans required by subsection (c).

40 (b) COORDINATION REPORT.—Not later than February 15 of each year,
 41 the Administrator and the Administrator of the National Oceanic and At-

1 atmospheric Administration shall jointly transmit a report to the Committee
 2 on Science and Technology of the House of Representatives and the Com-
 3 mittee on Commerce, Science, and Transportation of the Senate on how the
 4 Earth science programs of the Administration and the National Oceanic and
 5 Atmospheric Administration will be coordinated during the fiscal year fol-
 6 lowing the fiscal year in which the report is transmitted.

7 (e) COORDINATION OF TRANSITION PLANNING AND REPORTING.—The
 8 Administrator, in conjunction with the Administrator of the National Oce-
 9 anic and Atmospheric Administration and in consultation with other rel-
 10 evant agencies, shall evaluate relevant Administration science missions for
 11 their potential operational capabilities and shall prepare transition plans for
 12 the existing and future Earth observing systems found to have potential
 13 operational capabilities.

14 (d) LIMITATION.—The Administrator shall not transfer any Administra-
 15 tion Earth science mission or Earth observing system to the National Oce-
 16 anic and Atmospheric Administration until the plan required under sub-
 17 section (e) has been approved by the Administrator and the Administrator
 18 of the National Oceanic and Atmospheric Administration and until financial
 19 resources have been identified to support the transition or transfer in the
 20 President’s budget request for the National Oceanic and Atmospheric Ad-
 21 ministration.

22 **§ 60506. Sharing of climate related data**

23 The Administrator shall work to ensure that the Administration’s policies
 24 on the sharing of climate related data respond to the recommendations of
 25 the Government Accountability Office’s report on climate change research
 26 and data-sharing policies and to the recommendations on the processing,
 27 distribution, and archiving of data by the National Academies Earth Science
 28 Decadal Survey, “Earth Science and Applications from Space”, and other
 29 relevant National Academies reports, to enhance and facilitate their avail-
 30 ability and widest possible use to ensure public access to accurate and cur-
 31 rent data on global warming.

32 **Subtitle VII—Access to Space**

33 **CHAPTER 701—USE OF SPACE SHUTTLE OR**
 34 **ALTERNATIVES**

Sec.

70101. Recovery of fair value of placing Department of Defense payloads in orbit with space
 shuttle.

70102. Space shuttle use policy.

70103. Commercial payloads on space shuttle.

1 **§ 70101. Recovery of fair value of placing Department of De-**
2 **ense payloads in orbit with space shuttle**

3 Notwithstanding any other provision of law, or any interagency agree-
4 ment, the Administrator shall charge such prices as are necessary to recover
5 the fair value of placing Department of Defense payloads into orbit by
6 means of the space shuttle.

7 **§ 70102. Space shuttle use policy**

8 (a) USE POLICY.—

9 (1) IN GENERAL.—

10 (A) POLICY.—It shall be the policy of the United States to use
11 the space shuttle—

12 (i) for purposes that require a human presence;

13 (ii) for purposes that require the unique capabilities of the
14 space shuttle; or

15 (iii) when other compelling circumstances exist.

16 (B) DEFINITION OF COMPELLING CIRCUMSTANCES.—In this
17 paragraph, the term “compelling circumstances” includes, but is
18 not limited to, occasions when the Administrator determines, in
19 consultation with the Secretary of Defense and the Secretary of
20 State, that important national security or foreign policy interests
21 would be served by a shuttle launch.

22 (2) USING AVAILABLE CARGO SPACE FOR SECONDARY PAYLOADS.—

23 The policy stated in paragraph (1) shall not preclude the use of avail-
24 able cargo space, on a space shuttle mission otherwise consistent with
25 the policy described in paragraph (1), for the purpose of carrying sec-
26 ondary payloads (as defined by the Administrator) that do not require
27 a human presence if such payloads are consistent with the require-
28 ments of research, development, demonstration, scientific, commercial,
29 and educational programs authorized by the Administrator.

30 (b) ANNUAL REPORT.—At least annually, the Administrator shall submit
31 to Congress a report certifying that the payloads scheduled to be launched
32 on the space shuttle for the next 4 years are consistent with the policy set
33 forth in subsection (a)(1). For each payload scheduled to be launched from
34 the space shuttle that does not require a human presence, the Administrator
35 shall, in the certified report to Congress, state the specific circumstances
36 that justified the use of the space shuttle. If, during the period between
37 scheduled reports to Congress, any additions are made to the list of certified
38 payloads intended to be launched from the shuttle, the Administrator shall
39 inform Congress of the additions and the reasons therefor within 45 days
40 of the change.

(c) ADMINISTRATION PAYLOADS.—The report described in subsection (b) shall also include those Administration payloads designed solely to fly on the space shuttle which have begun the phase C/D of its development cycle.

§ 70103. Commercial payloads on space shuttle

(a) DEFINITIONS.—In this section:

(1) LAUNCH VEHICLE.—The term “launch vehicle” means any vehicle constructed for the purpose of operating in, or placing a payload in, outer space.

(2) PAYLOAD.—The term “payload” means an object which a person undertakes to place in outer space by means of a launch vehicle, and includes subcomponents of the launch vehicle specifically designed or adapted for that object.

(b) IN GENERAL.—Commercial payloads may not be accepted for launch as primary payloads on the space shuttle unless the Administrator determines that—

- (1) the payload requires the unique capabilities of the space shuttle;
- or
- (2) launching of the payload on the space shuttle is important for either national security or foreign policy purposes.

**CHAPTER 703—SHUTTLE PRICING POLICY FOR
COMMERCIAL AND FOREIGN USERS**

- Sec.
- 70301. Congressional findings and declarations.
 - 70302. Purpose, policy, and goals.
 - 70303. Definition of additive cost.
 - 70304. Duties of Administrator.

§ 70301. Congressional findings and declarations

Congress finds and declares that—

(1) the Space Transportation System is a vital element of the United States space program, contributing to the United States leadership in space research, technology, and development;

(2) the Space Transportation System is the primary space launch system for both United States national security and civil government missions;

(3) the Space Transportation System contributes to the expansion of United States private sector investment and involvement in space and therefore should serve commercial users;

(4) the availability of the Space Transportation System to foreign users for peaceful purposes is an important means of promoting international cooperative activities in the national interest and in maintaining access to space for activities which enhance the security and welfare of humankind;

1 (5) the United States is committed to maintaining world leadership
2 in space transportation;

3 (6) making the Space Transportation System fully operational and
4 cost effective in providing routine access to space will maximize the na-
5 tional economic benefits of the system; and

6 (7) national goals and the objectives for the Space Transportation
7 System can be furthered by a stable and fair pricing policy for the
8 Space Transportation System.

9 **§ 70302. Purpose, policy, and goals**

10 The purpose of this chapter is to set, for commercial and foreign users,
11 the reimbursement pricing policy for the Space Transportation System that
12 is consistent with the findings included in section 70301 of this title, en-
13 courages the full and effective use of space, and is designed to achieve the
14 following goals:

15 (1) The preservation of the role of the United States as a leader in
16 space research, technology, and development.

17 (2) The efficient and cost effective use of the Space Transportation
18 System.

19 (3) The achievement of greatly increased commercial space activity.

20 (4) The enhancement of the international competitive position of the
21 United States.

22 **§ 70303. Definition of additive cost**

23 In this chapter, the term “additive cost” means the average direct and
24 indirect costs to the Administration of providing additional flights of the
25 Space Transportation System beyond the costs associated with those flights
26 necessary to meet the space transportation needs of the United States Gov-
27 ernment.

28 **§ 70304. Duties of Administrator**

29 (a) ESTABLISHMENT AND IMPLEMENTATION OF REIMBURSEMENT RE-
30 COVERY SYSTEM.—The Administrator shall establish and implement a pric-
31 ing system to recover reimbursement in accordance with the pricing policy
32 under section 70302 of this title from each commercial or foreign user of
33 the Space Transportation System, which, except as provided in subsections
34 (c), (d), and (e), shall include a base price of not less than \$74,000,000
35 for each flight of the Space Transportation System in 1982 dollars.

36 (b) REPORTS TO CONGRESS.—Each year the Administrator shall submit
37 to the President of the Senate, the Speaker of the House of Representatives,
38 the Committee on Commerce, Science, and Transportation of the Senate,
39 and the Committee on Science and Technology of the House of Representa-
40 tives a report, transmitted contemporaneously with the annual budget re-
41 quest of the President, which shall inform Congress how the policy goals

1 contained in section 70302 of this title are being furthered by the shuttle
2 price for foreign and commercial users.

3 (c) REDUCTION OF BASE PRICE.—

4 (1) AUTHORITY TO REDUCE.—If at any time the Administrator finds
5 that the policy goals contained in section 70302 of this title are not
6 being achieved, the Administrator shall have authority to reduce the
7 base price established in subsection (a) after 45 days following receipt
8 by the President of the Senate, the Speaker of the House of Represent-
9 atives, the Committee on Commerce, Science, and Transportation of
10 the Senate, and the Committee on Science and Technology of the
11 House of Representatives of a notice by the Administrator containing
12 a description of the proposed reduction together with a full and com-
13 plete statement of the facts and circumstances which necessitate such
14 proposed reduction.

15 (2) MINIMUM PRICE.—In no case shall the minimum price estab-
16 lished under paragraph (1) be less than additive cost.

17 (d) LOW OR NO-COST FLIGHTS.—The Administrator may set a price
18 lower than the price determined under subsection (a) or (c), or provide no-
19 cost flights, for any commercial or foreign user of the Space Transportation
20 System that is involved in research, development, or demonstration pro-
21 grams with the Administration.

22 (e) CUSTOMER INCENTIVES.—Notwithstanding the provisions of sub-
23 section (a), the Administrator shall have the authority to offer reasonable
24 customer incentives consistent with the policy goals in section 70302 of this
25 title.

26 **CHAPTER 705—EXPLORATION INITIATIVES**

Sec.

- 70501. Space shuttle follow-on.
- 70502. Exploration plan and programs.
- 70503. Ground-based analog capabilities.
- 70504. Stepping stone approach to exploration.
- 70505. Lunar outpost.
- 70506. Exploration technology research.
- 70507. Technology development.
- 70508. Robotic or human servicing of spacecraft.

27 **§ 70501. Space shuttle follow-on**

28 (a) POLICY STATEMENT.—It is the policy of the United States to possess
29 the capability for human access to space on a continuous basis.

30 (b) ANNUAL REPORT.—The Administrator shall transmit an annual re-
31 port to the Committee on Science and Technology of the House of Rep-
32 resentatives and the Committee on Commerce, Science, and Transportation
33 of the Senate describing the progress being made toward developing the

1 Crew Exploration Vehicle and the Crew Launch Vehicle and the estimated
2 time before they will demonstrate crewed, orbital spaceflight.

3 **§ 70502. Exploration plan and programs**

4 The Administrator shall—

5 (1) construct an architecture and implementation plan for the Ad-
6 ministration’s human exploration program that is not critically depend-
7 ent on the achievement of milestones by fixed dates;

8 (2) implement an exploration technology development program to en-
9 able lunar human and robotic operations consistent with section
10 20302(b) of this title, including surface power to use on the Moon and
11 other locations;

12 (3) conduct an in-situ resource utilization technology program to de-
13 velop the capability to use space resources to increase independence
14 from Earth, and sustain exploration beyond low-Earth orbit; and

15 (4) pursue aggressively automated rendezvous and docking capabili-
16 ties that can support the International Space Station and other mission
17 requirements.

18 **§ 70503. Ground-based analog capabilities**

19 (a) IN GENERAL.—The Administrator may establish a ground-based ana-
20 log capability in remote United States locations in order to assist in the de-
21 velopment of lunar operations, life support, and in-situ resource utilization
22 experience and capabilities.

23 (b) ENVIRONMENTAL CHARACTERISTICS.—The Administrator shall select
24 locations for the activities described in subsection (a) that—

25 (1) are regularly accessible;

26 (2) have significant temperature extremes and range; and

27 (3) have access to energy and natural resources (including geo-
28 thermal, permafrost, volcanic, or other potential resources).

29 (c) INVOLVEMENT OF LOCAL POPULATIONS AND PRIVATE SECTOR PART-
30 NERS.—In carrying out this section, the Administrator shall involve local
31 populations, academia, and industrial partners as much as possible to en-
32 sure that ground-based benefits and applications are encouraged and devel-
33 oped.

34 **§ 70504. Stepping stone approach to exploration**

35 In order to maximize the cost-effectiveness of the long-term exploration
36 and utilization activities of the United States, the Administrator shall take
37 all necessary steps, including engaging international partners, to ensure that
38 activities in its lunar exploration program shall be designed and imple-
39 mented in a manner that gives strong consideration to how those activities
40 might also help meet the requirements of future exploration and utilization
41 activities beyond the Moon. The timetable of the lunar phase of the long-

1 term international exploration initiative shall be determined by the avail-
2 ability of funding. However, once an exploration-related project enters its
3 development phase, the Administrator shall seek, to the maximum extent
4 practicable, to complete that project without undue delays.

5 **§ 70505. Lunar outpost**

6 (a) ESTABLISHMENT.—As the Administration works toward the establish-
7 ment of a lunar outpost, the Administration shall make no plans that would
8 require a lunar outpost to be occupied to maintain its viability. Any such
9 outpost shall be operable as a human-tended facility capable of remote or
10 autonomous operation for extended periods.

11 (b) DESIGNATION.—The United States portion of the first human-tended
12 outpost established on the surface of the Moon shall be designated the “Neil
13 A. Armstrong Lunar Outpost”.

14 **§ 70506. Exploration technology research**

15 The Administrator shall carry out a program of long-term exploration-re-
16 lated technology research and development, including such things as in-
17 space propulsion, power systems, life support, and advanced avionics, that
18 is not tied to specific flight projects. The program shall have the funding
19 goal of ensuring that the technology research and development can be com-
20 pleted in a timely manner in order to support the safe, successful, and sus-
21 tainable exploration of the solar system. In addition, in order to ensure that
22 the broadest range of innovative concepts and technologies are captured, the
23 long-term technology program shall have the goal of having a significant
24 portion of its funding available for external grants and contracts with uni-
25 versities, research institutions, and industry.

26 **§ 70507. Technology development**

27 The Administrator shall establish an intra-Directorate long-term tech-
28 nology development program for space and Earth science within the Science
29 Mission Directorate for the development of new technology. The program
30 shall be independent of the flight projects under development. The Adminis-
31 tration shall have a goal of funding the intra-Directorate technology devel-
32 opment program at a level of 5 percent of the total Science Mission Direc-
33 torate annual budget. The program shall be structured to include competi-
34 tively awarded grants and contracts.

35 **§ 70508. Robotic or human servicing of spacecraft**

36 The Administrator shall take all necessary steps to ensure that provision
37 is made in the design and construction of all future observatory-class sci-
38 entific spacecraft intended to be deployed in Earth orbit or at a Lagrangian
39 point in space for robotic or human servicing and repair to the extent prac-
40 ticable and appropriate.

1 **CHAPTER 707—HUMAN SPACE FLIGHT INDEPENDENT**
 2 **INVESTIGATION COMMISSION**

Sec.

- 70701. Definitions.
- 70702. Establishment of Commission.
- 70703. Tasks of Commission.
- 70704. Composition of Commission.
- 70705. Powers of Commission.
- 70706. Public meetings, information, and hearings.
- 70707. Staff of Commission.
- 70708. Compensation and travel expenses.
- 70709. Security clearances for Commission members and staff.
- 70710. Reporting requirements and termination.

3 **§ 70701. Definitions**

4 In this chapter:

- 5 (1) COMMISSION.—The term “Commission” means a Commission es-
 6 established under this chapter.
- 7 (2) INCIDENT.—The term “incident” means either an accident or a
 8 deliberate act.

9 **§ 70702. Establishment of Commission**

10 (a) ESTABLISHMENT.—The President shall establish an independent,
 11 nonpartisan Commission within the executive branch to investigate any inci-
 12 dent that results in the loss of—

- 13 (1) a space shuttle;
- 14 (2) the International Space Station or its operational viability;
- 15 (3) any other United States space vehicle carrying humans that is
 16 owned by the Federal Government or that is being used pursuant to
 17 a contract with the Federal Government; or
- 18 (4) a crew member or passenger of any space vehicle described in
 19 this subsection.

20 (b) DEADLINE FOR ESTABLISHMENT.—The President shall establish a
 21 Commission within 7 days after an incident specified in subsection (a).

22 **§ 70703. Tasks of Commission**

23 A Commission established pursuant to this chapter shall, to the extent
 24 possible, undertake the following tasks:

- 25 (1) INVESTIGATION.—Investigate the incident.
- 26 (2) CAUSE.—Determine the cause of the incident.
- 27 (3) CONTRIBUTING FACTORS.—Identify all contributing factors to
 28 the cause of the incident.
- 29 (4) RECOMMENDATIONS.—Make recommendations for corrective ac-
 30 tions.
- 31 (5) ADDITIONAL FINDINGS OR RECOMMENDATIONS.—Provide any
 32 additional findings or recommendations deemed by the Commission to
 33 be important, whether or not they are related to the specific incident
 34 under investigation.

1 (6) REPORT.—Prepare a report to Congress, the President, and the
2 public.

3 **§ 70704. Composition of Commission**

4 (a) NUMBER OF COMMISSIONERS.—A Commission established pursuant
5 to this chapter shall consist of 15 members.

6 (b) SELECTION.—The members of a Commission shall be chosen in the
7 following manner:

8 (1) APPOINTMENT BY PRESIDENT.—The President shall appoint the
9 members, and shall designate the Chairman and Vice Chairman of the
10 Commission from among its members.

11 (2) LISTS PROVIDED BY LEADERS OF CONGRESS.—The majority
12 leader of the Senate, the minority leader of the Senate, the Speaker
13 of the House of Representatives, and the minority leader of the House
14 of Representatives shall each provide to the President a list of candi-
15 dates for membership on the Commission. The President may select
16 one of the candidates from each of the 4 lists for membership on the
17 Commission.

18 (3) PROHIBITION REGARDING FEDERAL OFFICERS AND EMPLOYEES
19 AND MEMBERS OF CONGRESS.—No officer or employee of the Federal
20 Government or Member of Congress shall serve as a member of the
21 Commission.

22 (4) PROHIBITION REGARDING CONTRACTORS.—No member of the
23 Commission shall have, or have pending, a contractual relationship with
24 the Administration.

25 (5) PROHIBITION REGARDING CONFLICT OF INTEREST.—The Presi-
26 dent shall not appoint any individual as a member of a Commission
27 under this section who has a current or former relationship with the
28 Administrator that the President determines would constitute a conflict
29 of interest.

30 (6) EXPERIENCE.—To the extent practicable, the President shall en-
31 sure that the members of the Commission include some individuals with
32 experience relative to human carrying spacecraft, as well as some indi-
33 viduals with investigative experience and some individuals with legal ex-
34 perience.

35 (7) DIVERSITY.—To the extent practicable, the President shall seek
36 diversity in the membership of the Commission.

37 (c) DEADLINE FOR APPOINTMENT.—All members of a Commission estab-
38 lished under this chapter shall be appointed no later than 30 days after the
39 incident.

40 (d) INITIAL MEETING.—A Commission shall meet and begin operations
41 as soon as practicable.

1 (e) SUBSEQUENT MEETINGS.—After its initial meeting, a Commission
2 shall meet upon the call of the Chairman or a majority of its members.

3 (f) QUORUM.—Eight members of a Commission shall constitute a
4 quorum.

5 (g) VACANCIES.—Any vacancy in a Commission shall not affect its pow-
6 ers, but shall be filled in the same manner in which the original appoint-
7 ment was made.

8 **§ 70705. Powers of Commission**

9 (a) HEARINGS AND EVIDENCE.—A Commission or, on the authority of
10 the Commission, any subcommittee or member thereof, may, for the purpose
11 of carrying out this chapter—

12 (1) hold such hearings and sit and act at such times and places, take
13 such testimony, receive such evidence, administer such oaths; and

14 (2) require, by subpoena or otherwise, the attendance and testimony
15 of such witnesses and the production of such books, records, cor-
16 respondence, memoranda, papers, and documents,

17 as the Commission or such designated subcommittee or member may deter-
18 mine advisable.

19 (b) CONTRACTING.—A Commission may, to such extent and in such
20 amounts as are provided in appropriation Acts, enter into contracts to en-
21 able the Commission to discharge its duties under this chapter.

22 (c) INFORMATION FROM FEDERAL AGENCIES.—

23 (1) IN GENERAL.—A Commission may secure directly from any execu-
24 tive department, bureau, agency, board, commission, office, inde-
25 pendent establishment, or instrumentality of the Government, informa-
26 tion, suggestions, estimates, and statistics for the purposes of this
27 chapter. Each department, bureau, agency, board, commission, office,
28 independent establishment, or instrumentality shall, to the extent au-
29 thorized by law, furnish such information, suggestions, estimates, and
30 statistics directly to the Commission, upon request made by the Chair-
31 man, the chairman of any subcommittee created by a majority of the
32 Commission, or any member designated by a majority of the Commis-
33 sion.

34 (2) RECEIPT, HANDLING, STORAGE, AND DISSEMINATION.—Informa-
35 tion shall only be received, handled, stored, and disseminated by mem-
36 bers of the Commission and its staff consistent with all applicable stat-
37 utes, regulations, and Executive orders.

38 (d) ASSISTANCE FROM FEDERAL AGENCIES.—

39 (1) GENERAL SERVICES ADMINISTRATION.—The Administrator of
40 General Services shall provide to a Commission on a reimbursable basis

1 administrative support and other services for the performance of the
2 Commission's tasks.

3 (2) OTHER DEPARTMENTS AND AGENCIES.—In addition to the as-
4 sistance prescribed in paragraph (1), departments and agencies of the
5 United States may provide to the Commission such services, funds, fa-
6 cilities, staff, and other support services as they may determine advis-
7 able and as may be authorized by law.

8 (3) ADMINISTRATION ENGINEERING AND SAFETY CENTER.—The Ad-
9 ministration Engineering and Safety Center shall provide data and
10 technical support as requested by the Commission.

11 **§ 70706. Public meetings, information, and hearings**

12 (a) PUBLIC MEETINGS AND RELEASE OF PUBLIC VERSIONS OF RE-
13 PORTS.—A Commission shall—

14 (1) hold public hearings and meetings to the extent appropriate; and

15 (2) release public versions of the reports required under this chapter.

16 (b) PUBLIC HEARINGS.—Any public hearings of a Commission shall be
17 conducted in a manner consistent with the protection of information pro-
18 vided to or developed for or by the Commission as required by any applica-
19 ble statute, regulation, or Executive order.

20 **§ 70707. Staff of Commission**

21 (a) APPOINTMENT AND COMPENSATION.—The Chairman, in consultation
22 with the Vice Chairman, in accordance with rules agreed upon by a Com-
23 mission, may appoint and fix the compensation of a staff director and such
24 other personnel as may be necessary to enable the Commission to carry out
25 its functions.

26 (b) DETAILEES.—Any Federal Government employee, except for an em-
27 ployee of the Administration, may be detailed to a Commission without re-
28 imbursement from the Commission, and such detailee shall retain the rights,
29 status, and privileges of his or her regular employment without interruption.

30 (c) CONSULTANT SERVICES.—A Commission may procure the services of
31 experts and consultants in accordance with section 3109 of title 5, but at
32 rates not to exceed the daily equivalent of the annual rate of basic pay in
33 effect for positions at level IV of the Executive Schedule under section 5315
34 of title 5. An expert or consultant whose services are procured under this
35 subsection shall disclose any contract or association the expert or consultant
36 has with the Administration or any Administration contractor.

37 **§ 70708. Compensation and travel expenses**

38 (a) COMPENSATION.—Each member of a Commission may be com-
39 pensated at a rate not to exceed the daily equivalent of the annual rate of
40 basic pay in effect for positions at level IV of the Executive Schedule under

1 section 5315 of title 5 for each day during which that member is engaged
2 in the actual performance of the duties of the Commission.

3 (b) TRAVEL EXPENSES.—While away from their homes or regular places
4 of business in the performance of services for the Commission, members of
5 a Commission shall be allowed travel expenses, including per diem in lieu
6 of subsistence, in the same manner as persons employed intermittently in
7 the Government service are allowed expenses under section 5703 of title 5.

8 **§ 70709. Security clearances for Commission members and**
9 **staff**

10 The appropriate Federal agencies or departments shall cooperate with a
11 Commission in expeditiously providing to the Commission members and
12 staff appropriate security clearances to the extent possible pursuant to exist-
13 ing procedures and requirements. No person shall be provided with access
14 to classified information under this chapter without the appropriate security
15 clearances.

16 **§ 70710. Reporting requirements and termination**

17 (a) INTERIM REPORTS.—A Commission may submit to the President and
18 Congress interim reports containing such findings, conclusions, and rec-
19 ommendations for corrective actions as have been agreed to by a majority
20 of Commission members.

21 (b) FINAL REPORT.—A Commission shall submit to the President and
22 Congress, and make concurrently available to the public, a final report con-
23 taining such findings, conclusions, and recommendations for corrective ac-
24 tions as have been agreed to by a majority of Commission members. Such
25 report shall include any minority views or opinions not reflected in the ma-
26 jority report.

27 (c) TERMINATION.—

28 (1) IN GENERAL.—A Commission, and all the authorities of this
29 chapter with respect to that Commission, shall terminate 60 days after
30 the date on which the final report is submitted under subsection (b).

31 (2) ADMINISTRATIVE ACTIVITIES BEFORE TERMINATION.—A Com-
32 mission may use the 60-day period referred to in paragraph (1) for the
33 purpose of concluding its activities, including providing testimony to
34 committees of Congress concerning its reports and disseminating the
35 final report.

36 **CHAPTER 709—INTERNATIONAL SPACE STATION**

Sec.

- 70901. Peaceful uses of space station.
- 70902. Allocation of International Space Station research budget.
- 70903. International Space Station research.
- 70904. International Space Station completion.
- 70905. National laboratory designation.

70906. International Space Station National Laboratory Advisory Committee.

70907. Maintaining use through at least 2020.

1 **§ 70901. Peaceful uses of space station**

2 No civil space station authorized under section 103(a)(1) of the National
3 Aeronautics and Space Administration Authorization Act, Fiscal Year 1991
4 (Public Law 101–611, 104 Stat. 3190) may be used to carry or place in
5 orbit any nuclear weapon or any other weapon of mass destruction, to in-
6 stall any such weapon on any celestial body, or to station any such weapon
7 in space in any other manner. This civil space station may be used only
8 for peaceful purposes.

9 **§ 70902. Allocation of International Space Station research
10 budget**

11 The Administrator shall allocate at least 15 percent of the funds budg-
12 eted for International Space Station research to ground-based, free-flyer,
13 and International Space Station life and microgravity science research that
14 is not directly related to supporting the human exploration program, con-
15 sistent with section 40904 of this title.

16 **§ 70903. International Space Station research**

17 The Administrator shall—

- 18 (1) carry out a program of microgravity research consistent with sec-
19 tion 40904 of this title; and
20 (2) consider the need for a life sciences centrifuge and any associated
21 holding facilities.

22 **§ 70904. International Space Station completion**

23 (a) POLICY.—It is the policy of the United States to achieve diverse and
24 growing utilization of, and benefits from, the International Space Station.

25 (b) ELEMENTS, CAPABILITIES, AND CONFIGURATION CRITERIA.—The
26 Administrator shall ensure that the International Space Station will—

- 27 (1) be assembled and operated in a manner that fulfills international
28 partner agreements, as long as the Administrator determines that the
29 shuttle can safely enable the United States to do so;
30 (2) be used for a diverse range of microgravity research, including
31 fundamental, applied, and commercial research, consistent with section
32 40904 of this title;
33 (3) have an ability to support a crew size of at least 6 persons, un-
34 less the Administrator transmits to the Committee on Science and
35 Technology of the House of Representatives and the Committee on
36 Commerce, Science, and Transportation of the Senate not later than
37 60 days after December 30, 2005, a report explaining why such a re-
38 quirement should not be met, the impact of not meeting the require-
39 ment on the International Space Station research agenda and oper-
40 ations and international partner agreements, and what additional fund-

1 ing or other steps would be required to have an ability to support a
2 crew size of at least 6 persons;

3 (4) support Crew Exploration Vehicle docking and automated dock-
4 ing of cargo vehicles or modules launched by either heavy-lift or com-
5 mercially-developed launch vehicles;

6 (5) support any diagnostic human research, on-orbit characterization
7 of molecular crystal growth, cellular research, and other research that
8 the Administration believes is necessary to conduct, but for which the
9 Administration lacks the capacity to return the materials that need to
10 be analyzed to Earth; and

11 (6) be operated at an appropriate risk level.

12 (c) CONTINGENCIES.—

13 (1) POLICY.—The Administrator shall ensure that the International
14 Space Station can have available, if needed, sufficient logistics and on-
15 orbit capabilities to support any potential period during which the
16 space shuttle or its follow-on crew and cargo systems are unavailable,
17 and can have available, if needed, sufficient surge delivery capability or
18 repositioning of spares and other supplies needed to accommodate any
19 such hiatus.

20 (2) PLAN.—Before making any change in the International Space
21 Station assembly sequence in effect on December 30, 2005, the Admin-
22 istrator shall transmit to the Committee on Science and Technology of
23 the House of Representatives and the Committee on Commerce,
24 Science, and Transportation of the Senate a plan to carry out the pol-
25 icy described in paragraph (1).

26 **§ 70905. National laboratory designation**

27 (a) DEFINITION OF UNITED STATES SEGMENT OF THE INTERNATIONAL
28 SPACE STATION.—In this section the term “United States segment of the
29 International Space Station” means those elements of the International
30 Space Station manufactured—

31 (1) by the United States; or

32 (2) for the United States by other nations in exchange for funds or
33 launch services.

34 (b) DESIGNATION.—To further the policy described in section 70501(a)
35 of this title, the United States segment of the International Space Station
36 is hereby designated a national laboratory.

37 (c) MANAGEMENT.—

38 (1) PARTNERSHIPS.—The Administrator shall seek to increase the
39 utilization of the International Space Station by other Federal entities
40 and the private sector through partnerships, cost-sharing agreements,

1 and other arrangements that would supplement Administration funding
2 of the International Space Station.

3 (2) CONTRACTING.—The Administrator may enter into a contract
4 with a nongovernmental entity to operate the International Space Sta-
5 tion national laboratory, subject to all applicable Federal laws and reg-
6 ulations.

7 **§ 70906. International Space Station National Laboratory**
8 **Advisory Committee**

9 (a) ESTABLISHMENT.—Not later than one year after October 15, 2008,
10 the Administrator shall establish under the Federal Advisory Committee Act
11 a committee to be known as the “International Space Station National Lab-
12 oratory Advisory Committee” (hereafter in this section referred to as the
13 “Committee”).

14 (b) MEMBERSHIP.—

15 (1) COMPOSITION.—The Committee shall be composed of individuals
16 representing organizations that have formal agreements with the Ad-
17 ministration to utilize the United States portion of the International
18 Space Station, including allocations within partner elements.

19 (2) CHAIR.—The Administrator shall appoint a chair from among
20 the members of the Committee, who shall serve for a 2-year term.

21 (c) DUTIES OF THE COMMITTEE.—

22 (1) IN GENERAL.—The Committee shall monitor, assess, and make
23 recommendations regarding effective utilization of the International
24 Space Station as a national laboratory and platform for research.

25 (2) ANNUAL REPORT.—The Committee shall submit to the Adminis-
26 trator, on an annual basis or more frequently as considered necessary
27 by a majority of the members of the Committee, a report containing
28 the assessments and recommendations required by paragraph (1).

29 (d) DURATION.—The Committee shall exist for the life of the Inter-
30 national Space Station.

31 **§ 70907. Maintaining use through at least 2020**

32 The Administrator shall take all necessary steps to ensure that the Inter-
33 national Space Station remains a viable and productive facility capable of
34 potential United States utilization through at least 2020 and shall take no
35 steps that would preclude its continued operation and utilization by the
36 United States after 2015.

37 **CHAPTER 711—NEAR-EARTH OBJECTS**

Sec.

71101. Reaffirmation of policy.

71102. Requests for information.

71103. Developing policy and recommending responsible Federal agency.

71104. Planetary radar.

1 **§ 71101. Reaffirmation of policy**

2 Congress reaffirms the policy set forth in section 20102(g) of this title
3 (relating to surveying near-Earth asteroids and comets).

4 **§ 71102. Requests for information**

5 The Administrator shall issue requests for information on—

6 (1) a low-cost space mission with the purpose of rendezvousing with,
7 attaching a tracking device, and characterizing the Apophis asteroid;
8 and

9 (2) a medium-sized space mission with the purpose of detecting near-
10 Earth objects equal to or greater than 140 meters in diameter.

11 **§ 71103. Developing policy and recommending responsible
12 Federal agency**

13 Within 2 years after October 15, 2008, the Director of the Office of
14 Science and Technology Policy shall—

15 (1) develop a policy for notifying Federal agencies and relevant
16 emergency response institutions of an impending near-Earth object
17 threat, if near-term public safety is at risk; and

18 (2) recommend a Federal agency or agencies to be responsible for—

19 (A) protecting the United States from a near-Earth object that
20 is expected to collide with Earth; and

21 (B) implementing a deflection campaign, in consultation with
22 international bodies, should one be necessary.

23 **§ 71104. Planetary radar**

24 The Administrator shall maintain a planetary radar that is comparable
25 to the capability provided through the Deep Space Network Goldstone facil-
26 ity of the Administration.

27 **CHAPTER 713—COOPERATION FOR SAFETY AMONG
28 SPACEFARING NATIONS**

Sec.

71301. Common docking system standard to enable rescue.

71302. Information sharing to avoid physical or radio-frequency interference.

29 **§ 71301. Common docking system standard to enable rescue**

30 In order to maximize the ability to rescue astronauts whose space vehicles
31 have become disabled, the Administrator shall enter into discussions with
32 the appropriate representatives of spacefaring nations who have or plan to
33 have crew transportation systems capable of orbital flight or flight beyond
34 low Earth orbit for the purpose of agreeing on a common docking system
35 standard.

1 **§ 71302. Information sharing to avoid physical or radio-fre-**
 2 **quency interference**

3 The Administrator shall, in consultation with other agencies of the Fed-
 4 eral Government as the Administrator considers appropriate, initiate discus-
 5 sions with the appropriate representatives of spacefaring nations to deter-
 6 mine an appropriate frame-work under which information intended to pro-
 7 mote safe access into outer space, operations in outer space, and return
 8 from outer space to Earth free from physical or radio-frequency interference
 9 can be shared among the nations.

10 **SEC. 4. CONFORMING AMENDMENTS TO OTHER LAWS.**

11 (a) TITLE 5.—Section 9811(a)(1)(E) of title 5, United States Code, is
 12 amended by striking “section 203(c)(2)(A) of the National Aeronautics and
 13 Space Act of 1958 (42 U.S.C. 2473(c)(2)(A))” and substituting “section
 14 20113(b)(1) of title 51”.

15 (b) TITLE 31.—Section 1304(a)(3)(D) of title 31, United States Code,
 16 is amended by striking “section 203 of the National Aeronautics and Space
 17 Act of 1958 (42 U.S.C. 2473)” and substituting “section 20113 of title
 18 51”.

19 (c) TITLE 35.—Section 210(a)(7) of title 35, United States Code, is
 20 amended by striking “section 305 of the National Aeronautics and Space
 21 Act of 1958 (42 U.S.C. 2457)” and substituting “section 20135 of title
 22 51”.

23 (d) TRANSFER OF CHAPTERS 701 AND 703 OF TITLE 49, UNITED
 24 STATES CODE.—

25 (1) TITLE 49, UNITED STATES CODE.—Title 49, United States Code,
 26 is amended as follows:

27 (A) In the analysis for title 49, United States Code, the item
 28 related to subtitle IX is amended to read as follows:
 29 **“IX. [TRANSFERRED]”.**

30 (B) The heading and analysis for subtitle IX of title 49, United
 31 States Code, are amended to read as follows:

“Subtitle IX—[Transferred]”

“Chapter	Sec.
“701. [Transferred]	
“703. [Transferred]”.	

32 (2) RENUMBERING AND TRANSFER OF CHAPTERS.—Chapters 701
 33 and 703 of title 49, United States Code, are renumbered as chapters
 34 509 and 511, respectively, of title 51, United States Code, and trans-
 35 ferred so as to appear after chapter 507 of title 51, United States
 36 Code, as enacted by section 3 of this Act.

1 (3) RENUMBERING OF SECTIONS IN CHAPTER 509 OF TITLE 51,
2 UNITED STATES CODE.—In chapter 509 of title 51, United States
3 Code, as renumbered by paragraph (2), and in the chapter analysis, the
4 sections are renumbered as follows:

5 (A) Section 70101 is renumbered 50901.

6 (B) Section 70102 is renumbered 50902.

7 (C) Section 70103 is renumbered 50903.

8 (D) Section 70104 is renumbered 50904.

9 (E) Section 70105 is renumbered 50905.

10 (F) Section 70105a is renumbered 50906.

11 (G) Section 70106 is renumbered 50907.

12 (H) Section 70107 is renumbered 50908.

13 (I) Section 70108 is renumbered 50909.

14 (J) Section 70109 is renumbered 50910.

15 (K) Section 70109a is renumbered 50911.

16 (L) Section 70110 is renumbered 50912.

17 (M) Section 70111 is renumbered 50913.

18 (N) Section 70112 is renumbered 50914.

19 (O) Section 70113 is renumbered 50915.

20 (P) Section 70114 is renumbered 50916.

21 (Q) Section 70115 is renumbered 50917.

22 (R) Section 70116 is renumbered 50918.

23 (S) Section 70117 is renumbered 50919.

24 (T) Section 70118 is renumbered 50920.

25 (U) Section 70119 is renumbered 50921.

26 (V) Section 70120 is renumbered 50922.

27 (W) Section 70121 is renumbered 50923.

28 (4) RENUMBERING OF SECTIONS IN CHAPTER 511 OF TITLE 51,
29 UNITED STATES CODE.—In chapter 511 of title 51, United States
30 Code, as renumbered by paragraph (2), and in the chapter analysis, the
31 sections are renumbered as follows:

32 (A) Section 70301 is renumbered 51101.

33 (B) Section 70302 is renumbered 51102.

34 (C) Section 70303 is renumbered 51103.

35 (D) Section 70304 is renumbered 51104.

36 (E) Section 70305 is renumbered 51105.

37 (5) CROSS REFERENCES IN CHAPTER 509 OF TITLE 51, UNITED
38 STATES CODE.—

39 (A) Section 50902(11) of title 51, United States Code, as re-
40 numbered by paragraph (3), is amended—

1 (i) by striking “section 70104(e)” and substituting “section
2 50904(e)”;

3 (ii) by striking “section 70105a” and substituting “section
4 50906”.

5 (B) Section 50902(19) of title 51, United States Code, as re-
6 numbered by paragraph (3), is amended by striking “section
7 70120(c)(2)” and substituting “section 50922(c)(2)”.

8 (C) Section 50904(a)(2) of title 51, United States Code, as re-
9 numbered by paragraph (3), is amended by striking “section
10 70102(1)(A) or (B)” and substituting “section 50902(1)(A) or
11 (B)”.

12 (D) Section 50904(a)(3) of title 51, United States Code, as re-
13 numbered by paragraph (3), is amended by striking “section
14 70102(1)(C)” and substituting “section 50902(1)(C)”.

15 (E) Section 50904(a)(4) of title 51, United States Code, as re-
16 numbered by paragraph (3), is amended by striking “section
17 70102(1)(C)” and substituting “section 50902(1)(C)”.

18 (F) Section 50905(b)(5)(A) of title 51, United States Code, as
19 renumbered by paragraph (3), is amended by striking “section
20 70112(a)(2) and (c)” and substituting “section 50914(a)(2) and
21 (c)”.

22 (G) Section 50906(e) of title 51, United States Code, as renum-
23 bered by paragraph (3), is amended by striking “section
24 70105(b)(2)(C)” and substituting “section 50905(b)(2)(C)”.

25 (H) Section 50906(i) of title 51, United States Code, as renum-
26 bered by paragraph (3), is amended by striking “sections 70106,
27 70107, 70108, 70109, 70110, 70112, 70115, 70116, 70117, and
28 70121” and substituting “sections 50907, 50908, 50909, 50910,
29 50912, 50914, 50917, 50918, 50919, and 50923”.

30 (I) Section 50907(a) of title 51, United States Code, as renum-
31 bered by paragraph (3), is amended by striking “sections
32 70104(c), 70105, and 70105a” and substituting “sections
33 50904(c), 50905, and 50906”.

34 (J) Section 50908(b)(2) of title 51, United States Code, as re-
35 numbered by paragraph (3), is amended by striking “section
36 70105(c)” and substituting “section 50905(e)”.

37 (K) Section 50908(e) of title 51, United States Code, as renum-
38 bered by paragraph (3), is amended by striking “section 70110”
39 and substituting “section 50912”.

1 (L) Section 50909(b) of title 51, United States Code, as renum-
 2 bered by paragraph (3), is amended by striking “section 70110”
 3 and substituting “section 50912”.

4 (M) Section 50912(a)(1) of title 51, United States Code, as re-
 5 numbered by paragraph (3), is amended by striking “section
 6 70105(a) or 70105a” and substituting “section 50905(a) or
 7 50906”.

8 (N) Section 50912(a)(2) of title 51, United States Code, as re-
 9 numbered by paragraph (3), is amended by striking “section
 10 70104(c)” and substituting “section 50904(e)”.

11 (O) Section 50912(a)(3)(A) of title 51, United States Code, as
 12 renumbered by paragraph (3), is amended by striking “section
 13 70107(b) or (c)” and substituting “section 50908(b) or (c)”.

14 (P) Section 50912(a)(3)(B) of title 51, United States Code, as
 15 renumbered by paragraph (3), is amended by striking “section
 16 70108(a)” and substituting “section 50909(a)”.

17 (Q) Section 50915(a)(1)(A) of title 51, United States Code, as
 18 renumbered by paragraph (3), is amended by striking “section
 19 70112(a)(1)(A)” and substituting “section 50914(a)(1)(A)”.

20 (R) Section 50915(a)(2) of title 51, United States Code, as re-
 21 numbered by paragraph (3), is amended—

22 (i) by striking “section 70112(a)(1)(A)” and substituting
 23 “section 50914(a)(1)(A)”; and

24 (ii) by striking “section 70112(a)(1)” and substituting
 25 “section 50914(a)(1)”.

26 (S) Section 50916 of title 51, United States Code, as renum-
 27 bered by paragraph (3), is amended by striking “section
 28 70106(b)” and substituting “section 50907(b)”.

29 (T) Section 50919(b)(2) of title 51, United States Code, as re-
 30 numbered by paragraph (3), is amended by striking “the Land
 31 Remote Sensing Policy Act of 1992 (15 U.S.C. 5601 et seq.)” and
 32 substituting “chapter 601 of this title”.

33 (U) Section 50922(e)(2)(B) of title 51, United States Code, as
 34 renumbered by paragraph (3), is amended by striking “section
 35 70102” and substituting “section 50902”.

36 (6) CROSS REFERENCES IN CHAPTER 511 OF TITLE 51, UNITED
 37 STATES CODE.—

38 (A) Section 51101(1) of title 51, United States Code, as renum-
 39 bered by paragraph (4), is amended by striking “section 502 of
 40 the National Aeronautics and Space Administration Authorization

1 Act, Fiscal Year 1993 (15 U.S.C. 5802)” and substituting “sec-
2 tion 50501 of this title”.

3 (B) Section 51104(d)(1) of title 51, United States Code, as re-
4 numbered by paragraph (4), is amended by striking “section 303
5 of this title” and substituting “section 303 of title 49”.

6 (7) ANALYSIS FOR TITLE 51, UNITED STATES CODE.—The analysis
7 for title 51, United States Code, as enacted by section 3 of this Act,
8 is amended by adding, after the item for chapter 507, the following
9 items:

10 “509. Commercial Space Launch Activities 50901
“511. Space Transportation Infrastructure Matching Grants 51101”.

11 (8) DEEMED REFERENCES TO TITLE 49, UNITED STATES CODE.—In
12 title 49, United States Code, references to “this title” are deemed to
13 refer also to chapters 509 and 511 of title 51, United States Code.

14 (e) NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AUTHORIZA-
15 TION ACT OF 2005.—Section 304 of the National Aeronautics and Space
16 Administration Authorization Act of 2005 (42 U.S.C. 16654) is amended
17 as follows:

18 (1) Subsection (a)(1) is redesignated as subsection (a) and amended
19 to read as follows:

20 “(a) ASSESSMENT OF CERTAIN MISSIONS.—Not later than 60 days after
21 the date of enactment of this Act, the Administrator shall carry out an as-
22 sessment under section 30504 of title 51, United States Code, for at least
23 the following missions: FAST, TIMED, Cluster, Wind, Geotail, Polar,
24 TRACE, Ulysses, and Voyager.”.

25 (2) Subsection (b) is amended by striking “subsection (a)(1)” and
26 substituting “subsection (a)”.

27 **SEC. 5. TRANSITIONAL AND SAVINGS PROVISIONS.**

28 (a) DEFINITIONS.—In this section:

29 (1) SOURCE PROVISION.—The term “source provision” means a pro-
30 vision of law that is replaced by a title 51 provision.

31 (2) TITLE 51 PROVISION.—The term “title 51 provision” means a
32 provision of title 51, United States Code, that is enacted by section 3.

33 (b) CUTOFF DATE.—The title 51 provisions replace certain provisions of
34 law enacted on or before July 1, 2009. If a law enacted after that date
35 amends or repeals a source provision, that law is deemed to amend or re-
36 peal, as the case may be, the corresponding title 51 provision. If a law en-
37 acted after that date is otherwise inconsistent with a title 51 provision or
38 a provision of this Act, that law supersedes the title 51 provision or provi-
39 sion of this Act to the extent of the inconsistency.

1 (c) ORIGINAL DATE OF ENACTMENT UNCHANGED.—For purposes of de-
 2 termining whether one provision of law supersedes another based on enact-
 3 ment later in time, a title 51 provision is deemed to have been enacted on
 4 the date of enactment of the corresponding source provision.

5 (d) REFERENCES TO TITLE 51 PROVISIONS.—A reference to a title 51
 6 provision is deemed to refer to the corresponding source provision.

7 (e) REFERENCES TO SOURCE PROVISIONS.—A reference to a source pro-
 8 vision, including a reference in a regulation, order, or other law, is deemed
 9 to refer to the corresponding title 51 provision.

10 (f) REGULATIONS, ORDERS, AND OTHER ADMINISTRATIVE ACTIONS.—A
 11 regulation, order, or other administrative action in effect under a source
 12 provision continues in effect under the corresponding title 51 provision.

13 (g) ACTIONS TAKEN AND OFFENSES COMMITTED.—An action taken or
 14 an offense committed under a source provision is deemed to have been taken
 15 or committed under the corresponding title 51 provision.

16 **SEC. 6. REPEALS.**

17 The following provisions of law are repealed, except with respect to rights
 18 and duties that matured, penalties that were incurred, or proceedings that
 19 were begun before the date of enactment of this Act:

Schedule of Laws Repealed

Act	Section	United States Code
National Aeronautics and Space Act of 1958 (Public Law 85-568)	102	42 U.S.C. 2451.
	103	42 U.S.C. 2452.
	201	42 U.S.C. 2471 (prior).
	202	42 U.S.C. 2472.
	203	42 U.S.C. 2473.
	204	42 U.S.C. 2474.
	205	42 U.S.C. 2475.
	206	42 U.S.C. 2476.
	207	42 U.S.C. 2476a.
	208	42 U.S.C. 2476b.
	302	42 U.S.C. 2453.
	303	42 U.S.C. 2454.
	304(a)	42 U.S.C. 2455(a).
	304(e)	42 U.S.C. 2456.
	304(f)	42 U.S.C. 2456a.
	305	42 U.S.C. 2457.
	306	42 U.S.C. 2458.
	307	42 U.S.C. 2458a.
	308	42 U.S.C. 2458b.
	309	42 U.S.C. 2458c.
	310	42 U.S.C. 2459.
	311	42 U.S.C. 2459b.
	312	42 U.S.C. 2459e.
	313	42 U.S.C. 2459f.
	314	42 U.S.C. 2459f-1.
	315	42 U.S.C. 2459j.
	316	42 U.S.C. 2459k.
	317	42 U.S.C. 2459l.
	401	42 U.S.C. 2481.
	402	42 U.S.C. 2482.
403	42 U.S.C. 2483.	
404	42 U.S.C. 2484.	
Act of June 15, 1959 (Public Law 86- 45)	4	42 U.S.C. 2460.
National Aeronautics and Space Admin- istration Authorization Act, 1968 (Public Law 90-67)	6	42 U.S.C. 2477.

Schedule of Laws Repealed—Continued

Act	Section	United States Code
Joint Resolution of September 29, 1969 (Public Law 91-76)	1, 2	42 U.S.C. 2461.
National Aeronautics and Space Admin- istration Authorization Act, 1978 (Public Law 95-76)	6	42 U.S.C. 2463.
National Aeronautics and Space Admin- istration Authorization Act, 1983 (Public Law 97-324)	106(a)	42 U.S.C. 2464.
National Aeronautics and Space Admin- istration Authorization Act of 1986 (Public Law 99-170)	201	42 U.S.C. 2466.
	202	42 U.S.C. 2466a.
	203	42 U.S.C. 2466b.
	204	42 U.S.C. 2466c.
National Space Grant College and Fel- lowship Act (Title II of Public Law 100-147)	203	42 U.S.C. 2486a.
	204	42 U.S.C. 2486b.
	205	42 U.S.C. 2486c.
	206	42 U.S.C. 2486d.
	207	42 U.S.C. 2486e.
	208	42 U.S.C. 2486f.
	209	42 U.S.C. 2486g.
	210	42 U.S.C. 2486h.
	211	42 U.S.C. 2486i.
	213	42 U.S.C. 2486k.
	214	42 U.S.C. 2486l.
Department of Housing and Urban De- velopment—Independent Agencies Ap- propriations Act, 1989 (Public Law 100-404)	(par. under heading “Science, Space, and Technology Education Trust Fund”, at 102 Stat. 1028).	42 U.S.C. 2467.
Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1990 (Public Law 101-144)	(pars. under heading “Small and Disadvantaged Business”, at 103 Stat. 863).	42 U.S.C. 2473b.
National Aeronautics and Space Admin- istration Authorization Act, Fiscal Year 1991 (Public Law 101-611)	112	42 U.S.C. 2465a.
	115(b)	15 U.S.C. 1535.
	123	(not previously classified).
	203	42 U.S.C. 2465c.
	206	42 U.S.C. 2465f.
Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992 (Public Law 102-139)	(1st par. under heading “Administrative Provisions”, at 105 Stat. 771).	42 U.S.C. 2459d.
National Aeronautics and Space Admin- istration Authorization Act, Fiscal Year 1992 (Public Law 102-195)	19	42 U.S.C. 2459e.
	20	42 U.S.C. 2467a.
	21(a)	42 U.S.C. 2473c(a).
	21(e)	42 U.S.C. 2473c(e).
	21(d)	42 U.S.C. 2473c(d).
	21(e)	42 U.S.C. 2473c(e).
	21(f)	42 U.S.C. 2473c(f).
	21(g)	42 U.S.C. 2473c(g).
	21(h)	42 U.S.C. 2473c(h).
Land Remote Sensing Policy Act of 1992 (Public Law 102-555)	3	15 U.S.C. 5602.
	101	15 U.S.C. 5611.
	102	15 U.S.C. 5612.
	103	15 U.S.C. 5613.

Schedule of Laws Repealed—Continued

Act	Section	United States Code
	104	15 U.S.C. 5614.
	105	15 U.S.C. 5615.
	201	15 U.S.C. 5621.
	202	15 U.S.C. 5622.
	203	15 U.S.C. 5623.
	204	15 U.S.C. 5624.
	205	15 U.S.C. 5625.
	301	15 U.S.C. 5631.
	302	15 U.S.C. 5632.
	303	15 U.S.C. 5633.
	401	15 U.S.C. 5641.
	501	15 U.S.C. 5651.
	502	15 U.S.C. 5652.
	503	15 U.S.C. 5653.
	504	15 U.S.C. 5654.
	505	15 U.S.C. 5655.
	506	15 U.S.C. 5656.
	507	15 U.S.C. 5657.
	508	15 U.S.C. 5658.
	601	15 U.S.C. 5671.
	602	15 U.S.C. 5672.
National Aeronautics and Space Administration Authorization Act, Fiscal Year 1993 (Public Law 102-588)	304	42 U.S.C. 2467b.
	502	15 U.S.C. 5802.
	504	15 U.S.C. 5803.
	506	15 U.S.C. 5805.
	507	15 U.S.C. 5806.
	508	15 U.S.C. 5807.
	510	15 U.S.C. 5808.
	602	42 U.S.C. 2487a.
	603	42 U.S.C. 2487b.
	604	42 U.S.C. 2487c.
	606	42 U.S.C. 2487e.
	607	42 U.S.C. 2487f.
	608	42 U.S.C. 2487g.
Commercial Space Act of 1998 (Public Law 105-303)	2	42 U.S.C. 14701.
	101	42 U.S.C. 14711.
	104(b)	42 U.S.C. 14712(b).
	105	42 U.S.C. 14713.
	106	42 U.S.C. 14714.
	107	42 U.S.C. 14715, 15 U.S.C. 5621, 5622.
	201	42 U.S.C. 14731.
	202	42 U.S.C. 14732.
	204	42 U.S.C. 14733.
	205	42 U.S.C. 14734.
	206	42 U.S.C. 14735.
Technology Administration Act of 1998 (Public Law 105-309)	8	15 U.S.C. 1511e.
National Aeronautics and Space Administration Authorization Act of 2000 (Public Law 106-391)	126	42 U.S.C. 2475a.
	301	42 U.S.C. 2459g.
	304	42 U.S.C. 2459h.
	305	42 U.S.C. 2475b.
	325	42 U.S.C. 2473d.
Commercial Reusable In-Space Transportation Act of 2002 (Title IX of Public Law 107-248)	903	42 U.S.C. 14752.
	904	42 U.S.C. 14753.
Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2003 (Division K of Public Law 108-7)	(last par. under heading “Administrative Provisions”, at 117 Stat. 520).	42 U.S.C. 2459i.
National Aeronautics and Space Administration Authorization Act of 2005 (Public Law 109-155)	101(a)	42 U.S.C. 16611(a).
	101(b)	42 U.S.C. 16611(b).
	101(h)(1)	42 U.S.C. 16611(h)(1).
	101(i)	42 U.S.C. 16611(i).

Schedule of Laws Repealed—Continued

Act	Section	United States Code
	103	42 U.S.C. 16613.
	105	42 U.S.C. 16614.
	107	42 U.S.C. 16615.
	110	42 U.S.C. 16618.
	202	42 U.S.C. 16631.
	203	42 U.S.C. 16632.
	204	42 U.S.C. 16633.
	205	42 U.S.C. 16634.
	301	42 U.S.C. 16651.
	304(a) (matter before par. (1))	42 U.S.C. 16654(a) (matter before par. (1)).
	304(a)(2)	42 U.S.C. 16654(a)(2).
	305(2)	42 U.S.C. 16655(2).
	305(3)	42 U.S.C. 16655(3).
	306	42 U.S.C. 16656.
	311	42 U.S.C. 16671.
	312	42 U.S.C. 16672.
	313	42 U.S.C. 16673.
	314	42 U.S.C. 16674.
	315	42 U.S.C. 16675.
	316	42 U.S.C. 16676.
	401	42 U.S.C. 16701.
	411	42 U.S.C. 16711.
	421	42 U.S.C. 16721.
	422	42 U.S.C. 16722.
	423	42 U.S.C. 16723.
	424	42 U.S.C. 16724.
	425	42 U.S.C. 16725.
	426	42 U.S.C. 16726.
	427	42 U.S.C. 16727.
	431	42 U.S.C. 16741.
	441	42 U.S.C. 16751.
	501(a)	42 U.S.C. 16761(a).
	501(b)	42 U.S.C. 16761(b).
	503	42 U.S.C. 16763.
	504	42 U.S.C. 16764.
	505	42 U.S.C. 16765.
	506(1)	42 U.S.C. 16766(1).
	506(2)	42 U.S.C. 16766(2).
	507(a)	42 U.S.C. 16767(a).
	507(b)	42 U.S.C. 16767(b).
	507(d)	42 U.S.C. 16767(d).
	601	42 U.S.C. 16781.
	612	42 U.S.C. 16791.
	613	42 U.S.C. 16792.
	615	42 U.S.C. 16794.
	616	42 U.S.C. 16795.
	618	42 U.S.C. 16797.
	619(b)	42 U.S.C. 16798(b).
	621	42 U.S.C. 16811.
	707	42 U.S.C. 16821.
	708	42 U.S.C. 16822.
	709	42 U.S.C. 16823.
	821	42 U.S.C. 16841.
	822	42 U.S.C. 16842.
	823	42 U.S.C. 16843.
	824	42 U.S.C. 16844.
	825	42 U.S.C. 16845.
	826	42 U.S.C. 16846.
	827	42 U.S.C. 16847.
	828	42 U.S.C. 16848.
	829	42 U.S.C. 16849.
	830	42 U.S.C. 16850.
America COMPETES Act (Public Law 110–69)	2001(a)	42 U.S.C. 16611a(a).
	2001(b)	42 U.S.C. 16611a(b).
	2001(c)	42 U.S.C. 16611a(c).
	2001(e)	42 U.S.C. 16611a(e).
	2002(b)	42 U.S.C. 16712(b).
	2003	42 U.S.C. 16658.
Science Appropriations Act, 2008 (Public Law 110–161, div. B, title III)	(7th par. under heading “Administrative Provisions”, at 121 Stat. 1919).	42 U.S.C. 16611b.
National Aeronautics and Space Administration Authorization Act of 2008 (Public Law 110–422)	201	42 U.S.C. 17711.
	204(b)	42 U.S.C. 17712(b).
	204(c)	42 U.S.C. 17712(c).
	204(d)	42 U.S.C. 17712(d).
	206(a)	42 U.S.C. 17713(a).
	208	42 U.S.C. 17714.
	302	42 U.S.C. 17721.

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Act	Section	United States Code
	303	42 U.S.C. 17722.
	304(b)	42 U.S.C. 17723(b).
	304(e)	42 U.S.C. 17723(c).
	307	42 U.S.C. 17724.
	403	42 U.S.C. 17731.
	404(a)	42 U.S.C. 17732(a).
	404(b)	42 U.S.C. 17732(b).
	405(b)	42 U.S.C. 17733(b).
	407	42 U.S.C. 17734.
	501	42 U.S.C. 17741.
	502	42 U.S.C. 17742.
	601(a)	42 U.S.C. 17751(a).
	602	42 U.S.C. 17752.
	704(b)	42 U.S.C. 17781(b).
	704(e)	42 U.S.C. 17781(c).
	801(a)	42 U.S.C. 17791(a).
	803	42 U.S.C. 17793.
	804	42 U.S.C. 17794.
	805	42 U.S.C. 17795.
	902	42 U.S.C. 17801.
	1002(a)	42 U.S.C. 17811(a).
	1003(a)	42 U.S.C. 17812(a).
	1102(b)	42 U.S.C. 17821(b).
	1103	42 U.S.C. 17822.
	1104	42 U.S.C. 17823.
	1107	42 U.S.C. 17824.
	1109(e)	42 U.S.C. 17825(c).
	1112	42 U.S.C. 17827.
	1116	42 U.S.C. 17828.
	1117	42 U.S.C. 17829.
Science Appropriations Act, 2009 (Public Law 111–8, div. B, title III	(3d proviso in par. under heading “Cross Agency Support”, at 123 Stat. 589).	42 U.S.C. 16611b note.

