SEC. 912. COMMERCIAL SPACE LAUNCH COOPERATION.

(a) COMMERCIAL SPACE LAUNCH COOPERATION AUTHORITY.—Chapter 135 of title 10, United States Code, is amended by adding at the end the following new section:

"**§ 2275. Commercial space launch cooperation**

"(a) AUTHORITY.—The Secretary of Defense and the Administrator of the National Aeronautics and Space Administration may, to assist the Secretary of Transportation in carrying out responsibilities set forth in titles 49 and 51 with respect to private sector involvement in commercial space transportation activity and public-private partnerships pertaining to space transportation infrastructure, take such actions as each considers to be in the best interest of the Government to—

"(1) maximize the use of the capacity of Department of Defense or National Aeronautics and Space Administration space transportation infrastructure by the United States private sector;

"(2) maximize the effectiveness and efficiency of Department of Defense or National Aeronautics and Space Administration space transportation infrastructure;

"(3) reduce the cost of services provided by the Department of Defense or National Aeronautics and Space Administration at launch support facilities and space recovery support facilities;

"(4) encourage commercial space activities by enabling investment in Department of Defense or National Aeronautics and Space Administration space transportation infrastructure by United States non-federal entities; and

"(5) foster cooperation between the Department of Defense or the National Aeronautics and Space Administration and United States non-federal space transportation entities.

"(b) CONTRIBUTIONS.—The Secretary of Defense and the Administrator of the National Aeronautics and Space Administration may each enter into agreements with United States non-federal entities on a cooperative and voluntary basis to accept contributions of funds, property, and services to carry out this section. Any funds, property, or services accepted under this subsection shall be used only for the objectives specified in this section in accordance with terms of use to be determined by agreement between the contributor and the Secretary or Administrator, and shall be managed by the Secretary or Administrator in accordance with, respectively, Department of Defense and National Aeronautics and Space Administration regulations. Any such agreement shall address terms of use, ownership, and disposition of resources, as well as possible benefits accruing to non-federal entities that are not a party to the agreement

"(c) INCLUSION OF COMMERCIAL REQUIREMENTS IN CONTRACTS.—The Secretary of Defense and the Administrator of the National Aeronautics and Space Administration may each include, upon request by a United States commercial launch entity, commercial space launch and support requirements in Department of Defense or National Aeronautics and Space promise Administration space launch and reentry range support requirements if—

"(1) the Secretary or the Administrator, as the case may be, determines that the inclusion of such commercial space launch and support requirements—

"(A) is in the best interest of the Government;

"(B) does not interfere with the requirements of, respectively, the

Department of Defense or the National Aeronautics and Space Administration; and

"(C) does not compete with the commercial space activities of United States commercial space entities unless otherwise in furtherance of national security; and

"(2) any commercial requirement included in a Department of Defense or National Aeronautics and Space Administration contract has full non-federal funding before the execution of such contract.

"(d) DEFENSE COOPERATION SPACE LAUNCH ACCOUNT.—

"(1) ESTABLISHMENT.—There is established in the Treasury of the United States a special account to be known as the 'Defense Cooperation Space Launch Account'.

"(2) CREDITING OF FUNDS.—Funds received by the Secretary of Defense under subsection (b) shall be credited to the Defense Cooperation Space Launch Account and shall be available until expended without further authorization or appropriation only for the objectives specified in this section.

"(3) INVESTMENT OF FUNDS.— The Secretary of Defense may request the Secretary of the Treasury to invest such portion of the Defense Cooperation Space Launch Account that is not, in the judgment of the Secretary of Defense, required to meet the current needs of the account. Such investments shall be made by the Secretary of the Treasury in public debt obligations, with maturities suitable to the needs of the fund, as determined by the Secretary of Defense, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparative maturities.

"(4) ANNUAL REPORT.—Not later than January 31 of each year, the Secretary of Defense shall submit to the congressional defense committees a report on the funds accepted and expended by the Secretary under this section during the previous fiscal year.

"(e) DEFINITIONS.— In this section:

"(1) LAUNCH SUPPORT FACILITIES.—The term 'launch support facilities' has the meaning given that term in section 50501(7) of title 51.

"(2) SPACE RECOVERY SUPPORT FACILITIES.—The term 'space recovery support facilities' has the meaning given that term in section 50501(11) of title 51.

"(3) SPACE TRANSPORTATION INFRASTRUCTURE.—The term 'space transportation infrastructure' has the meaning given that term in section 50501(12) of title 51.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2275. Commercial space launch cooperation.''.

(c) REGULATIONS.—The Secretary of Defense shall prescribe regulations relating to the activities of the Department of Defense under section 2275 of title 10, United States Code, as added by subsection (a).

Section-by-Section Analysis

This proposal would provide a mechanism for the Department of Defense (DoD) and the National Aeronautics and Space Administration (NASA) to support commercial space activities by providing greater access to launch property and services to the private sector, and allow DoD and NASA to accept funding from the private sector in order to develop, enhance, or maintain the U.S. Government's launch, range instrumentation, and reentry sites. This proposal would authorize DoD and NASA to accept non-federal funding only under strict implementation guidelines, which would be narrowly applied to space launch and base support services only. NASA does not require, and therefore does not seek, the authority provided to the DoD under subsection (d).

Additionally, under this proposal, DoD and NASA may include, with up-front commercial funding, commercial launch/base support requirements in, respectively, DoD or

NASA contracts. For example if a commercial launch provider could add its requirements and funding to existing DoD and NASA infrastructure support contracts, the government's purchasing power would be enhanced through the increase in the economies of scale, as well as the benefit from receiving the additional up-front funding from the commercial launch provider prior to contracting. Thus, this change would ensure our contracts are "right-sized" and no longer offered to commercial launch providers just on an "excess" capacity basis, which would result in synergistic operations and eliminate administrative impediments and bureaucracy. For example, the DoD has a range instrumentation requirement to be able to launch within 48 hours, including a current contract to support this capability. However, if the DoD and NASA could add a commercial launch provider's requirements, along with upfront funding from non-federal sources, to pay for this additional capability, the Department could launch within 24 hours, which would benefit both the DoD and commercial providers. Additionally, three processing facilities are currently under-utilized, while one commercial provider has a backlog, resulting in processing delays. Commercial use of any/all DoD and NASA processing facilities to process both commercial, DoD, and NASA payloads would result in efficiencies, better mission assurance, and cost savings for users.

Section 2273(c) of Title 10 instructs the Secretary of Defense to pursue the attainment of the capabilities necessary to launch and insert United States national security payloads into space "in coordination with the Administrator of the National Aeronautics and Space Administration" to the maximum extent practicable. DoD and NASA maintain continuing collaboration on many space-related activities, including significant agreements under the Economy Act for shared services and infrastructure. Yet DoD and NASA launch and space recovery support facilities and ranges are challenged by escalating costs, eroding capabilities, and bureaucratic processes. These conditions not only impair DoD and NASA launch programs (including the capabilities necessary to launch and insert United States national security payloads into space), but also impair DoD's and NASA's ability to support commercial space to the level of Congressional/Presidential intent. This legislative change would increase the DoD's and NASA's abilities to meet this intent by allowing the DoD, NASA, and the commercial space sector to combine their requirements and funding within DoD and NASA contracts and allowing the DoD and NASA to purchase facilities and equipment that can be shared and maintained on an equitable basis -- making the services and facilities available to each with the cost and availability efficiencies shared by all.

Budget Implications: The Department of Defense (DoD) expects this proposal to be covered by existing DoD staff administrative labor in fiscal years (FYs) 2012-2016, specifically within the plans and programs functions at each of the space wings. The National Aeronautics and Space Administration (NASA) expects this proposal to be covered by existing civil servant labor in fiscal years (FYs) 2012-2016, specifically within the plans and programs functions of the Space Operations Mission Directorate (SOMD). The work involved would be an extension of the administration, liaison, consultation, and planning functions these offices already perform in conjunction with commercial and state entities doing business with the space wings and SOMD. The cost of this DoD labor in general, not specific to this proposal, is approximately $500,000 per year for 3-4 man years' worth of effort. The cost of this NASA labor in general, not specific to this proposal, is difficult to estimate. NASA strongly supports co-sponsorship of this proposal; however current circumstances do not allow an easily comparable match of similar

activity or accurate budget comparisons. The DoD cost is part of the FY 2012-2016 budget baseline and does not require additional funding from Congress. There would be no budgetary tradeoff to fund this proposal. Rather, the associated workload would be added to and compete with other assigned tasks for performance by appropriate personnel as space wing priorities dictate. The Air Force comptroller agrees that this workload is included in the budget and funded.

RESOURCES ($MILLION) ASSOCIATED WITH PROPOSAL INCLUDED IN PRESIDENT'S BUDGET								
	FY 2012	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**
O&M, AF	.5	.5	.5	.5	.5	O&M	01	12950
Total	.5	.5	.5	.5	.5	-	-	-

NUMBER OF PEOPLE AFFECTED								
	FY 2012	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**	**Appropriation To**	**Budget Activity**	**Dash-1 Line Item**
Army	0	0	0	0	0			
Navy	0	0	0	0	0			
Marine Corp	0	0	0	0	0			
Air Force	3-4	3-4	3-4	3-4	3-4	O&M	01	12950
Total	3-4	3-4	3-4	3-4	3-4			

The primary budget implication of this proposal is that it would permit the DoD and NASA to accept contributions of funds, property, and services from non-federal entities to enable federal/non-federal partnerships that benefit national security, access to space, and the development and vitality of the commercial space industry. It would not increase the DoD or NASA launch, range, or facility budget, but it could pave the way for cost savings or cost avoidance opportunities. The proposal would allow the DoD, NASA, and the commercial industry to share requirements and costs on a case-by-case basis, thereby creating quantity efficiencies for all. It does not mandate additional costs or generate guaranteed, measurable savings. It is an "enabling" authority for the DoD and NASA launch and space recovery support facilities and ranges to enter into cooperative agreements with the commercial space industry, to save resources and add capability for all parties, but only when in the best interests of the DoD or NASA.

Changes to Existing Law: This proposal would add a new section 2275 to chapter 135 of title 10, United States Code, as shown in the legislative text above.