I have always been a friend and supporter of NASA and the U.S. program. I, like so many other Americans, have relished in the Earth-shaking rumbling of powerful shuttle engines launched from the Kennedy Space Center. The instant illumination of the night sky still sends a rush of excitement throughout the United States. Children and adults alike dream of the day when they will have an opportunity to see our Earth from beyond its atmosphere.

The U.S. space program has done so much for Americans, not just inspiring and educating us on space exploration, but constantly improving our quality of life. The returns on those investments are accrued all around us. Technologies of NASA's space program have had and continue to have a profound effect on the U.S. and its people. Many products utilized in our homes and workplaces and used for health, fitness and recreation are the direct result of space technology spin-offs.

It is important for Congress to be aware of the issues facing NASA when it comes to hiring and retaining the best and brightest minds of the scientific community. NASA's workforce differs significantly from other Federal agencies in that more than 60 percent of its makeup is scientists and engineers. These statistics place NASA in a difficult position as the number of graduates in the physical sciences, both under- and post-graduate, continues to decrease.

The NASA Workforce Flexibility Act allows NASA to suit up and engage in the fierce competition with the private sector for the most qualified candidates, thus allowing it to become more competitive in recruiting and retaining the kind of workforce NASA will need in the 21st century.

But while NASA suits up, so must Congress. We must provide guidance to this important Federal agency to ensure that it is recruiting and signing up the most qualified candidates from all colleges, universities and the private sector.

Our colleague, the gentlewoman from Texas (Ms. JACKSON-LEE), offered an amendment to the underlying bill in committee that would have reinstated the Minority University and Research Programs as a division after NASA demoted it to program status. The amendment was, unfortunately, defeated. While I have been told that this program has not been stripped of any of its abilities to carry out its mission, I certainly hope that the defeat of this amendment is not the beginning of a striptease.

NASA scholarship opportunities should be equally distributed among institutions of higher education, including minority-serving institutions. Programs such as the one the gentlewoman from Texas (Ms. JACKSON-LEE) sought to reinstate provide the necessary outreach needed to bring the most qualified and diverse candidates to the table.

Mr. Speaker, despite the progress that has been made, it is critical that we continue to move forward in diversifying the workplace. Lags have been particularly visible for minorities in the math and physical sciences. Democrats stand united and prepared to work with the majority to further ensure that Federal agencies, NASA included, are held accountable for their recruiting and hiring practices. Agencies must not only make good-faith efforts to recruit, employ, train, promote and retain members of underrepresented groups, but they must also show us results.

Mr. Speaker, I too want to thank the members of the Committee on Science, in particular the gentleman from New York (Chairman BOEHLERT) and the ranking member, the gentleman from Tennessee (Mr. GORDON), for their incredible work. I also want to thank the members of the Committee on Government Reform, particularly the gentleman from Virginia (Chairman Tom Davis) and the ranking member, the gentleman from California (Mr. WAXMAN), for all of their good work.

As I mentioned previously, I support the underlying legislation and I will not oppose the rule. I urge my colleagues to do the same.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, reiterating my support for the underlying legislation as well as the rule, I ask my colleagues to support both.

Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

□ 1035

RECESS

The SPEAKER pro tempore (Mr. TERRY). Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 10 o'clock and 36 minutes a.m.), the House stood in recess subject to the call of the Chair.

□ 1055

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. LINCOLN DIAZ-BALART) at 10 o'clock and 55 minutes a.m.

NASA FLEXIBILITY ACT OF 2003

The SPEAKER pro tempore. Pursuant to House Resolution 502 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the Senate bill, S. 610.

□ 1056

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the Senate bill (S. 610) to amend the provision of title 5, United States Code, to provide for workforce flexibilities and certain Federal personnel provisions relating to the National Aeronautics and Space Administration, and for other purposes, with Mr. ISAKSON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from New York (Mr. BOEHLERT) and the gentleman from Tennessee (Mr. GORDON) each will control 20 minutes; and the gentleman from Virginia (Mr. TOM DAVIS) and the gentleman from Illinois (Mr. DAVIS) each will control 10 minutes.

The Chair recognizes the gentleman from New York (Mr. BOEHLERT).

Mr. BOEHLERT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of S. 610 and I urge my colleagues to approve it and send it to the White House for the President's signature.

This measure is a top priority of the entire administration, especially, of course, of the NASA Administrator. We have taken more than long enough to turn the bill into law.

The need for this bill, it seems to me, is beyond dispute. Events of the past year have highlighted NASA's need to attract and retain the best workforce imaginable, and yet NASA is on the brink of losing the talent that it already has.

Within just 5 years, 5 years, fully one-quarter of NASA's workforce will be eligible to retire. It is no wonder that the General Accounting Office has repeatedly cited strengthening human capital as one of NASA's top management challenges. We must stem the tide of the brain drain. S. 610 is a targeted, carefully crafted, moderate approach to giving NASA additional tools to meet that challenge. The bill does not make any radical departures from current law. Rather, it modifies and expands existing workforce authorities so that NASA can compete with the private sector in the labor market. That is just common sense.

Will changes in civil service laws solve all of NASA's workforce problems? Of course not. But NASA will not be better prepared to recruit and retain the workforce it needs if it is competing with one hand tied behind its back, as it is with current law.

This bill began as a proposal from NASA. We went over that proposal with a fine tooth comb, accepted some provisions, rejected others, and modified many more to clarify and target the new authority.

As a result of those negotiations and additional work in the other body, we

have finally ended up with the noncontroversial product that is before us today. A bill eagerly awaited by the administration, a bill that faces no opposition from organized labor, a bill that passed the Senate by unanimous consent.

□ 1100

In short, this is a bill that will make a real difference to NASA and the work we charge it to do without taking any untested approaches or crossing any ideological trip wires.

I should note that the bill before us is nearly identical to my original bill, H.R. 1085, as reported by the House Committee on Science almost 6 months ago.

The most significant difference between the two measures is that S. 610 no longer includes a provision that would have increased the number of employees who could participate in a personnel demonstration project. We are trying to minimize the number of people that can be in a pilot project. If we do not limit the number, we end up having a universal project. NASA was never able to give us any sense of how it would use the requested new authority, and I have no regrets that it has not remained in the bill.

I probably should also point out that we never included in H.R. 1085 authority the administration sought to allow private sector employees to work as government employees for a set period of time. This reverse Intergovernmental Personnel Act program seemed destined to confuse further the line between contract and government workers that already bedevils NASA.

The result of these kinds of decisions, once again, is that we have before us a bill that is not the least bit controversial, but is no less significant for that. It took a lot of work to get us to this point, but it will be worth it.

I want to thank the gentleman from Virginia (Chairman TOM DAVIS) and the rest of the Committee on Government Reform for working so closely with us on this measure. The gentleman from Virginia (Mr. TOM DAVIS) had his own NASA provision as a part of a larger workforce bill, H.R. 1836.

I also want to thank the gentleman from Tennessee (Mr. GORDON), our new ranking member, for getting us off to such an amicable start. It has been a pleasure to work with the gentleman from Tennessee (Mr. GORDON) all these years, and I welcome him to this position of new responsibility and authority and am confident he will serve us all well in this post and will carry on the tradition that we have established in the Committee on Science of working across the aisle, working together to sort out things, to minimize our differences and maximize the opportunities we have to address real problems and deal with them responsibly.

The gentleman from Tennessee (Mr. GORDON) was willing to look at this bill afresh in light of the work we had done with the Senate and events that had transpired since our markup. As a result, we are coming to the floor as a team. Not everyone in this Chamber would have been willing to do that, and I greatly appreciate it.

I also want to thank the gentleman from California (Mr. ROHRABACHER), the chairman of our Subcommittee on Space and Aeronautics, who contributed important scholarship provisions to the bill, and to welcome the gentleman from Texas (Mr. LAMPSON), the new ranking member of the subcommittee, my friend and colleague.

Mr. Chairman, as I have mentioned, this bill is ready for the President's signature. I urge my colleagues to oppose any amendments that might arise and to give this bill the overwhelming support it deserves and that NASA so needs.

Mr. Chairman, I reserve the balance of my time.

Mr. GORDON. Mr. Chairman, I yield myself such time as I may consume.

First, Mr. Chairman, let me thank the gentleman from New York (Mr. BOEHLERT), my chairman, for his kind remarks; and let me concur in that our committee has a long tradition of working in a bipartisan manner. I cannot think of anyone that I would rather work with than our chairman, and I look forward to continuing that progress for our country.

Mr. Chairman, the NASA workforce is a critical national asset. We need to ensure that its strength is maintained if NASA is to undertake all the challenging activities envisioned for it in the coming decades. NASA's workforce is a highly skilled workforce. They truly are rocket scientists.

Yet the NASA workforce is under stress. Those stresses include infrastructure that is aging and in need of repair and upgrading, diversion of resources from existing tasks to provide money for proposed new initiatives, and outsourcing and privatization agendas that call into question the agency's commitment to careers at NASA. Last year, I would have added another item to that list, namely, a lack of long-term goals for the agency.

However, President Bush has now proposed an initiative to go back to the Moon and then at some point in the future send humans to Mars. I have long supported the idea that the space program needs some clear and compelling long-term goals. So I welcome the President's decision to propose an initiative. Of course, setting goals is an important first step, but we will still need to assess whether or not the President's plan to achieve these goals is viable. We will have a better idea of that once the fiscal year 2005 budget request is released next week and once NASA provides more information on specifics of the initiative.

Clearly, it will not send a good signal to NASA's workforce if the new initiative winds up being paid for by cannibalizing other important NASA activities. It will not be fair to the NASA workforce if they are tasked with a set of challenging and ambitious goals and a budget that is inadequate to achieve those goals.

Turning to S. 610, the NASA Flexibility Act of 2003, I believe that it is an improvement over the legislation considered by the Committee on Science last year. It modifies or eliminates a number of provisions that I and other Members have found objectionable; and at the same time, we should not lull ourselves into believing that this bill will solve all of NASA's workforce problems. For example, S. 610 includes a number of enhanced recruitment and retention bonuses. Yet I have been troubled by the indications from NASA's own data that NASA may not be using its existing authorities to the fullest extent due to competing budgetary pressures at the various centers, pressures that may well be increased.

Apparently my concerns are shared by NASA's inspector general. He has initiated an investigation into the extent to which NASA is making use of its existing workforce authorities. I look forward to hearing the results of that investigation.

With respect to the space shuttle, under the President's plan, the civil servants and contract personnel supporting the shuttle program will see their jobs disappear over the next 6 years. The best of those employees are not going to wait around for the inevitable. That fact puts the onus on NASA's management to ensure that the critical skills needed to fly the shuttle safely will be retained over the entire period. I certainly hope that NASA has a credible shuttle workforce retention plan ready to go. If not, NASA's management needs to put one in place as soon as possible if we are to avoid a hemorrhaging of critical skills from the shuttle program.

Finally, I remain concerned that S. 610 is a bill focused solely on the NASA workforce. However, the leadership of NASA has argued strongly that they need this legislation to maintain a strong workforce. As a result of that and as a result of the gentleman from New York (Chairman BOEHLERT) graciously accepting some improvements to the bill, I will support passage of S. 610 today; and I will be watching over the coming years to make sure that NASA's performance on workforce issues matches its stated intentions.

Mr. Chairman, I reserve the balance of my time.

Mr. BOEHLERT. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. ROHRABACHER), the distinguished chairman of the Subcommittee on Space and Aeronautics.

Mr. ROHRABACHER. Mr. Chairman, I rise in support of S. 610, the NASA Flexibility Act of 2003. NASA engineers, scientists, and technicians have been the space agency's true pioneers. These talented men and women dedicated to pushing the technological envelope are credited with opening new vistas of progress for all of humankind. We must look at them as a valuable, valuable asset.

With the recent announcement of our President, NASA's workforce will again be looked upon to extend the reach of our capabilities, to extend our reach to the Moon and then farther on into the heavens. Let us hope that the can-do spirit of the past will be reawakened in NASA as a result of the President's visionary goals-setting coupled with what I consider to be a very pragmatic strategy as set forward by the President.

Let us hope the young people throughout America will hear the President's words and are excited and activated by this new goal-setting by the President of the United States and thus by the executive branch of the United States Government.

As we begin a new chapter in America's space experience, we are doing our job on the legislative end. S. 610 will help ensure that talented and creative people continue to commit their time and services to America's space effort so we can achieve the goals that I just referred to.

An aging workforce today threatens the future of our civil space program. In response to this impending crisis, this legislation calls for remedies aimed at helping NASA become more flexible in recruiting, retaining, and restructuring its workforce to address the agency's critical needs. For example, major provisions of the bill authorize NASA to provide greater pay and bonuses to individuals critical to the goals, missions, and objectives of the agency, as well as to authorize and set up a scholarship for a service program in which NASA can pay a student's tuition in exchange for accepting employment at NASA upon graduation; and I am particularly proud of that provision.

The gentleman from New York's (Chairman BOEHLERT) continuing leadership and all of his hard work have been making this reform possible; and given the administration's new vision for NASA, there is no better time for us to be tackling this workforce problem. I thank the chairman; I thank the ranking member; I thank the people on both sides of the aisle. We have worked on this in a bipartisan spirit, and this will give us the ability to accomplish great things in the future for our country.

Mr. GORDON. Mr. Chairman, I yield 5 minutes to the gentleman from Texas (Mr. LAMPSON), the new ranking member of the Subcommittee on Space and Aeronautics.

Mr. LAMPSON. Mr. Chairman, I thank the gentleman from Tennessee (Mr. GORDON), the ranking member, and want to commend him on his ascension to being ranking member on the Committee on Science and thank him not only for what he is going to be doing as ranking member but for the great work the gentleman has done on the committee along the way.

It is a pleasure also to work with the gentleman from New York (Chairman BOEHLERT) and the gentleman from California (Mr. ROHRABACHER), the chairman of the Subcommittee on Space and Aeronautics, as well; and I look forward to that.

Mr. Chairman, I rise in support of S. 610; and even though it does not address all of the important issues facing the NASA workforce, including those outlined by the gentleman from Tennessee (Mr. GORDON) earlier, it is the only NASA workforce bill that we are likely to get out of this Congress this year, and as such, I intend to support it.

When a House version of this workforce legislation was marked up by the Committee on Science last year, I objected to the lack of any challenging goals for NASA's human space flight program. I offered an amendment to establish some specific goals. Unfortunately, my amendment was defeated on a party-line vote. I thought that was a mistake, and now it appears that President Bush agrees with me; and he has announced this ambitious, long-term exploration initiative that mirrors my amendment in earlier legislation that I had introduced; and I am very pleased to see that happen.

The challenge, however, will be in turning those goals into a reality in a manner that does not damage NASA's other important programs or take away from our commitments to those members of society who do indeed need our help.

Mr. Chairman, NASA's management has said that they need this workforce legislation. I am prepared to support it because I deeply care about the hard-working, dedicated men and women who work at NASA and especially at the Johnson Space Center, and I want to do whatever might help them achieve their full potential. Yet simply increasing the size of the bonuses available to NASA employees is not a cure-all, especially if NASA is not making full use of its existing bonus authority, a possibility that is being investigated, as we speak, by NASA's inspector general.

I do not believe that NASA's best and brightest are motivated primarily by money anyway. Rather, I think it is the chance to work on cutting-edge research and development and to attempt the near impossible that attracts them to NASA, and that is what is going to keep them there.

I remember a year or so ago getting up and leaving our table at the committee hearing and going out into the audience and sitting with about 20 or 25 college students and asking them, when we were talking about financial benefits that would supposedly motivate them to go to work for NASA, what it was that they wanted to see, and the response was destination goals: it will give me an opportunity to live my dream, give me an opportunity to go work on something that will make a difference to society.

That is also why I was so upset a few years ago when the NASA leadership decided to cancel the X–38 crew return vehicle project. The X–38/CRV was an exciting example of NASA employees coming up with an innovative, low-cost way of meeting an important space station requirement, and they were working hard to turn it into a reality. Yet it was cancelled just as it was nearing completion, and I might add, at a greater cost than it would have taken to complete it. The dedicated NASA team that had worked on that project was broken up and dispersed.

So where are we now? It appears that after several years of false starts on a more expensive project for the X–38/CRV, NASA leadership has now decided to pay the Russians to provide the same capability, create jobs in Russia.

I sponsored legislation to allow the United States to use the Soyuz after the *Columbia* tragedy, to give more flexibility to the administration.

□ 1115

The Congress is going to have to revisit the Iran Nonproliferation Act if we are going to rely on Soyuz, as the administration wants, to get us to and from the Space Station after the Shuttle is retired in 2010.

So whatever we may think of the wisdom of sending U.S. taxpayer dollars to Russia, it certainly does not strike me as being the way to reward innovation by the NASA workforce. Quite the contrary.

I intend to take a close look at NASA's plans for the Space Station and the Space Shuttle as we review the fiscal 2005 budget request over the coming months. We owe it to the NASA workforce to ask the tough questions. We need to ensure that they are being given sensible plans to implement, as well as the tools to carry them out. In the meantime, I think that S. 610 represents an improvement over legislation that we considered earlier, and I am prepared to support it.

Mr. BOEHLERT. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Michigan (Mr. EHLERS), a very valued member of the Committee on Science.

Mr. EHLERS. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, today I rise in strong support of S. 610, the NASA Flexibility Act. The Committee on Science chairman, the gentleman from New York (Mr. BOEHLERT), and the Committee on Government Reform chairman, the gentleman from Virginia (Mr. TOM DAVIS) are to be commended for working closely with our colleagues in the other body, as well as with NASA and NASA's unions, in crafting the moderate, targeted and careful package of civil service modifications that resulted in S. 610.

All proposals from NASA, its unions, the House and Senate were considered, refined, debated and discussed in a series of hearings in both the House and Senate committees. Differences were debated openly and in a straightforward manner. These measures were

carefully crafted after a year and a half of thorough deliberation. This has been an arduous process, but the outcome is an excellent piece of legislation with S. 610.

The real winner from all this hard work that went into this legislation will be the scientists and engineers at NASA. NASA is having a difficult time recruiting and retaining the best and the brightest workforce, as many NASA employees from the Apollo era have retired; and unfortunately, the bright, prospective, new talent we need in the agency is instead sometimes attracted to jobs paying more than the government can provide.

NASA does many amazing things, as the Mars exploration rovers have demonstrated, but the agency also faces a number of challenges in addressing the recommendations of the Columbia Accident Investigation Board report. S. 610 will help to revitalize the agency, and I ask all Members to support this bill.

Let me also mention another important aspect of this issue. We cannot do good science without good scientists, and we cannot do good engineering without good engineers. In our Nation, unfortunately, the engineering enrollments have been declining for 20 years, in a steady, slow decline. We are having problems in this Nation with getting good, bright engineers and scientists to do the work we need, not only at NASA but elsewhere.

I am very pleased that the President recognized this important factor in his State of the Union speech when he mentioned the need to improve math and science education in this Nation. Today, over half of the graduate students in science and engineering in our Nation are from other countries. Our students are not competing well on graduate student admissions. And when we trace it back, it is because they were not excited about science by the time they finished the K–12 system, even though many are excited going into it. We must address that problem.

We have addressed it to the best of our ability through math-science partnerships in the National Science Foundation and in the Department of Education. We must continue to support that, plus we also have to provide the resources for our Nation's teachers and our education system to provide the education that our future scientists and engineers need.

I believe a combination of improving our K–12 system plus this bill will be a great asset not only for NASA but also for our Nation in the years ahead.

Mr. GORDON. Mr. Chairman, I reserve the balance of my time.

Mr. BOEHLERT. Mr. Chairman, I reserve the balance of my time.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, for years we have been sounding the alarm that the Federal Government faces grave danger when it comes to losing highly specialized employees. NASA is certainly no exception. In fact, it leads the pack. Fifteen percent of NASA's workforce is currently eligible to retire. A quarter of the agency will be eligible to retire over the next 5 years. Scientists and engineers over 60 outnumber those under 30 by nearly three to one. The potential loss of institutional knowledge is staggering.

Why are we in the midst of a human capital crisis? When it comes to the kind of very smart, very well-educated, highly specialized people who work in our space program? It is largely because we are competing directly with the higher-paying private sector firms. But it is also because when it comes to the civil service, preserving traditions has become a tradition unto itself, and I think it is time to change that tradition.

NASA, as well as the country as a whole, scored a major victory this month by safely landing two unmanned rovers on the face of Mars. In order to make sure that NASA's successes such as this outweigh its failures, we need to provide NASA with as much flexibility as possible in order to recruit and retain the best and the brightest that this country has to offer for our space program.

The simple fact is that NASA's personnel policies are dated and are holding the agency back. The modernization that this bipartisan legislation promises marks a significant step in the right direction for NASA, for the government, for science and for taxpayers.

It has been over a year since NASA Administrator Sean O'Keefe first came to Capitol Hill requesting these much-needed personnel flexibilities. And while I wish we could have responded sooner, I am pleased to be here today to see the legislation finally making its way through the process.

The Committee on Government Reform, which I chair, marked up similar legislation last May, and the House Committee on Science marked up the legislation last July. I want to thank my friend and colleague, the chairman of the Committee on Science, the gentleman from New York (Mr. BOEHLERT) for his tremendous efforts in moving this important legislation forward, as well as the subcommittee chairman, the gentleman from California (Mr. ROHRABACHER), and the ranking minority members as well; and I look forward to working with them in the future to improve workforce flexibilities available to NASA, as well as to other Federal agencies that work to expand the frontier of science.

One of the difficulties we have in recruiting employees today for NASA and other agencies, is that when they go to a job fair and they talk to a college recruiter, by the time they go back and go through all the rules and regulations in hiring, sometimes background checks, it is months before they can put an offer on the table. In the meantime, the private sector is up there with hiring bonuses, and they are up there with an offer on the table immediately with a job guarantee. We cannot compete in that kind of environment.

I know some of my friends on the Committee on Science on the other side of the aisle are concerned about paying bonuses, but this is commonplace in the private sector with which we are competing. We are talking about some of the brightest people in the world, scientists, engineers, literally rocket scientists that we want running our space program. We do not want to go second tier with people who are salaried and getting bogged down making sometimes one-tenth of what they could make in the private sector. It does not work that way.

So I support this legislation, and I am proud to see it moving forward.

Mr. Chairman, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, in July 2001, the Office of Personnel Management updated its report entitled Human Resources Flexibilities and Authorities in the Federal Government. The report states that the government as a single employer remains sound public policy. Consequently, it is important to retain government-wide approaches, authorities, entitlements, and requirements in several areas, including collective bargaining, merit system principles, due process protections related to adverse actions and, among other things, veterans preference in employment and retention.

If, as the report states, government as a single employer is sound public policy, the overly broad and hastily developed human resources authorities granted to the Department of Homeland Security, the Department of Defense, and now the National Aeronautics and Space Administration, NASA, are simply not the best sound public policy.

That is not to say that the current civil service system is not in need of reform. It is. Members of Congress, their staffs and stakeholders have worked diligently to improve agency-specific reform proposals as they speed to enactment, but that is not the way to create a fair and equitable civil service. Congress, the Office of Personnel Management and Federal employee groups should be concentrating our efforts on government-wide reforms rather than agency-by-agency requests.

The bill being considered today is no exception. Although S. 610 has been greatly improved since its initial introduction, it serves only to further fragment the civil service. I applaud the fact that the bill includes a provision that mandates that NASA's Administrator submit a plan for OPM approval detailing the workforce needs of NASA, how NASA intends to use new workforce flexibilities to meet those needs,

and how the agency has utilized existing flexibilities.

NASA is also required to submit a workforce plan to Congress and provide it to all employees at least 60 days before exercising any of the flexibilities in the plan. These are very prudent steps for Congress to require NASA to take. However, they are steps that should have been taken before granting NASA the authority.

Mr. Chairman, I would urge that the Subcommittee on Civil Service and Agency Organization of the Committee on Government Reform exercise its authority over NASA and other agencies that have received new human capital flexibilities. If nothing else, we can examine how effective these agencies are in implementing these new flexibilities before granting them to other agencies.

There has been a great deal of effort to reach bipartisan agreement on this legislation. I commend the chairman of the Committee on Government Reform, the gentleman from Virginia (Mr. TOM DAVIS), and the ranking member, the gentleman from California (Mr. WAXMAN), for the leadership and civility that they have displayed. So I am going to vote in favor of this legislation and further urge that we continue to take a good, hard look at the implementation of these flexibilities before granting them to other agencies on an individual-by-individual agency request. I still believe that agency-wide reform throughout the entire government is the best approach.

Mr. Chairman, I yield back the balance of my time.

Mr. BOEHLERT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to conclude my remarks by thanking our very capable staff of the Committee on Science on our side, David Goldston and Chris Shank, and this was the last bill worked on by our deceased former counsel, Mr. Barry Berringer, who always gave so much, such great value added to the committee with his outstanding work.

We cannot function in this Congress without the commitment, the ability and the hard work of dedicated professional staff, and we are blessed in the Committee on Science. But we are not the only ones. All across Capitol Hill, the people and the background are there every single day working hard to prepare us to deal responsibly in shaping public policy.

So I want to conclude my remarks by thanking the staff for their outstanding work.

Mr. Chairman, I submit for the RECORD letters to and from myself and the Chairman of the Committee on Government Reform regarding the appointment of conferees on this bill.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON GOVERNMENT REFORM,
Washington, DC, January 27, 2004.

Hon. SHERWOOD L. BOEHLERT,
Chairman, Committee on Science, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for working with me in developing the H.R. 1085, the NASA Flexibility Act of 2003. As you know, the Committee on Government Reform reported the bill, H.R. 1836, the Civil Service and National Security Personnel Improvement Act. Included in that Act was Title III, Subtitle B, National Aeronautics and Space Administration. The House is scheduled to consider S. 610, the Senate companion to H.R. 1085 tomorrow. Although S. 610 has been held at the Speaker's desk it is my understanding that the bill would have been referred to the Committees on Science and on Government Reform.

I support moving this important legislation forward expeditiously; however, I do so only with the understanding that this procedural route should not be construed to prejudice the Committee on Government Reform's or the Committee on Science's jurisdictional interest and prerogatives on this bill or any other similar legislation.

I respectfully request your support for the appointment of outside conferees from the Committee on Government Reform should this bill or a similar bill be considered in a conference with the Senate. Finally, I would ask that you include a copy of our exchange of letters on this matter in the Congressional Record during floor consideration of S. 610. Thank you for your assistance and cooperation in this matter.

Sincerely,

TOM DAVIS,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON SCIENCE,
Washington, DC, January 27, 2004.

Hon. TOM DAVIS,
Chairman, Committee on Government Reform, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter concerning H.R. 1085, the NASA Flexibility Act of 2003, and S. 610, the Senate's companion bill. As you know, the House will consider S. 610 on the floor tomorrow.

It is also my understanding that had S. 610 not been held at the Speaker's desk, it would have been referred to the Committee on Science and to the Committee on Government Reform. I agree that by agreeing to have the bill held at the desk, the Committee on Science and the Committee on Government Reform have not adversely affected their respective jurisdictional interests or their prerogatives in this bill or similar legislation.

I would be happy to support your request for conferees on this bill or similar legislation should a conference with the Senate become necessary.

Thank you for your consideration and attention to this bill.

Sincerely,

SHERWOOD BOEHLERT,
Chairman.

Mr. Chairman, I yield back the balance of my time.

□ 1130

Mr. GORDON. Mr. Chairman, I yield myself such time as I may consume.

In conclusion, I want to thank the gentleman from Virginia (Mr. TOM DAVIS) and the gentleman from New York (Mr. BOEHLERT) for bringing forth a better bill, and also thank the gentleman from Texas (Mr. LAMPSON) for improving the bill and for the gentleman's accession as the ranking member on the Subcommittee on Space and Aeronautics and let the gentleman know he could not possibly find a better partner than the gentleman from California (Mr. ROHRABACHER) as the chairman of their subcommittee.

Again, I thank the gentleman from New York (Chairman BOEHLERT) for helping us make this a better bill. I want to say to our Members that I intend to support this bill and recommend that they support it in final passage.

Mrs. JO-ANN DAVIS of Virginia. Mr. Chairman, I am pleased to be here today to speak in favor of S. 610, the NASA Flexibility Act of 2003.

Since its creation in 1958, NASA has been the foremost symbol of American ingenuity, daring and accomplishment. Its talented employees have helped us explore new worlds and peek into distant galaxies. Time and again, NASA has shaped our Nation's future.

But in one respect, NASA is still stuck in the past. This bill will help us transform NASA's personnel system into a modern, flexible and responsive system, one that is absolutely necessary for a 21st Century workforce.

This legislation gives NASA powerful tools to win the recruitment and retention battles it faces everyday. Just last year, NASA Administrator Sean O'Keefe described the agency's personnel situation as ''alarming,'' given that 1 out of every 4 of the agency's scientists and engineers is eligible to retire, and that those above the age of 60 outnumber those below the age of 30 by a nearly 3-to-1 ratio. NASA faces a potential ''brain drain''—and that is not a scenario we can allow to happen.

By authorizing higher pay for certain exceptional employees, offering more vacation time to mid-career hires, and allowing for recruitment, retention and relocation bonuses, S. 610 addresses these concerns.

And this legislation has been created to address some of the concerns of employees, too. In exchange for these flexibilities, NASA is required to submit a written plan to the Office of Personnel Management stating the workforce needs of NASA, how NASA will use increased workforce flexibilities to meet those needs, and how NASA has used existing flexibilities. A workforce plan must also be submitted to Congress and to all employees at least 60 days before exercising any part of the plan. Prior to submitting a plan to Congress, however, a proposed plan must be provided to employee representatives and NASA is required to give their recommendations ''full and fair consideration.''

These are provisions that I had pushed for in the House version of this bill, H.R. 1085, and I am pleased that they will be included in the final version that is poised to become law.

Mr. Chairman, I urge passage of S. 610.

Ms. JACKSON-LEE of Texas. Mr. Chairman, it is with mild apprehension that I rise today in support of S. 610, the NASA Flexibility Act. My vote today is not really an endorsement of this bill. Instead it is a vote of confidence for the people at NASA, and a demonstration of my heart-felt desire to work together in a bipartisan fashion here in Congress, with the Administrator at NASA, and with the administration, to help NASA achieve the greatness of which it is capable.

NASA is at a turning point. The past two decades have seen drastic cuts in the NASA budgets and the NASA workforce. Its mission has been unambitious, and its programs have seemed to drift. We have lost two space shuttles and 14 brave astronauts. But today, there is unprecedented hope for the future. Two rovers on the surface of Mars are beaming back

data that could help us unlock some of the greatest mysteries of our universe. They have captured the imaginations of the American people, with over 30 million people logging on to the NASA website in the last weeks. The President has launched a dialog that could lead to a bold new mission for NASA, to go back to the Moon, then on to Mars, and beyond. The excitement in my district of Houston is palpable.

If we start this new phase on the right foot, there is nothing that NASA, driven by the American spirit, cannot accomplish. But if we stumble, we could set back human space exploration for generations. That would be tragic for our scientists, our society, and our economy.

When the Workforce Flexibility bill first came to us in the Science Committee, I was absolutely against it. It gave too much latitude to the Administrator to tinker with the loyal NASA workforce through huge demonstration projects. It allowed big bonuses for political appointees—and I don't hear anyone arguing that there is a critical need for more political appointees in this town. After some intense bipartisan work in the Science Committee, and with help from the unions, and with some strong leadership from Senator HOLLINGS, the most egregious parts of the bill have been removed.

But the most important reason I was against the bill before us in Fall, is that I felt it was irresponsible to give the Administrator of NASA the flexibility to move faster—when we had no idea where he was going. We were hearing that they needed the ability to bring in key personnel, but they couldn't tell us what project those people were going to work on, because NASA was severely lacking in vision and mission. This is why I and many other of our colleagues supported Congressman NICK LAMPSON's Space Exploration Act of 2003, which would have set a series of bold, yet attainable goals for NASA. I am pleased that the President has heard our call, and has put forth his plan for the future of the manned-space mission of NASA.

We are far from finalizing that plan, but there has been a surge of momentum and enthusiasm, and I hope we capitalize on it. The bold new mission will take creativity at every level of NASA. That is why I am lending my voice in support of this workforce bill. But I am still concerned. I hope this and future NASA administrators are judicious in their use of this new ''flexibility.'' My district is a stone's-throw from Johnson Space Center, and I consider the people there my friends and neighbors. They come to Houston out of a noble sense of purpose, to do something extraordinary and be a part of something unlike anything else in the history of this planet.

Sure, bonuses and travel expenses like those authorized in this bill can make it a bit more comfortable for those in government jobs—but that is not what will keep the best people at NASA. They want a sense of purpose—and that will come from a bold mission. They want a sense of community—and that will come from stability and fairness in the workplace. They want to feel that they are making a difference—and that will come from changing the culture at NASA so that bright thoughtful people are heard and respected. And they want to feel safe—and that will come from making safety a priority and not an afterthought as it has been in the past.

To make NASA all it should be, we will all need to work together. I will do my part, and by supporting this bill I am giving the Administrator the tools he says he needs to do his. But, I will be following closely as the future of NASA unfolds. Today we are hearing a new level of interest and commitment from the administration. However, as we have seen with education, and homeland security, and HIV/AIDS—often the words are not backed up by adequate funding and political capital. I hope that will not be the case with NASA.

This act creates scholarship for work programs that will help get the best young people to choose NASA for their careers. I hope various retention bonuses will enable the Administrator to encourage top people to stay through the transition that will occur over the next decade as we move from the space shuttle and the space station, into the work beyond. For example, we must harvest the talents of the fabulous space shuttle team in Houston, and not risk letting them run to private industry while Congress or the administration sits on its hands.

It should be an exciting year for NASA, and space enthusiasts around the world. I hope this act will help drive NASA to greatness. I support it and urge my colleagues to do the same.

Mr. GORDON. Mr. Chairman, I yield back the balance of my time.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the bill is considered read for amendment under the 5-minute rule.

The text of S. 610 is as follows:

S. 610

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''NASA Flexibility Act of 2003''.

SEC. 2. COMPENSATION FOR CERTAIN EXCEPTED PERSONNEL.

(a) IN GENERAL.—Subparagraph (A) of section 203(c)(2) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2473(c)(2)(A)) is amended by striking ''the highest rate of grade 18 of the General Schedule of the Classification Act of 1949, as amended,'' and inserting ''the rate of basic pay payable for level III of the Executive Schedule,''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the first day of the first pay period beginning on or after the date of enactment of this Act.

SEC. 3. WORKFORCE AUTHORITIES.

(a) IN GENERAL.—Subpart I of part III of title 5, United States Code, is amended by inserting after chapter 97, as added by section 841(a)(2) of the Homeland Security Act of 2002 (Public Law 107–296; 116 Stat. 2229), the following:

''CHAPTER 98—NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

''Sec.
''9801. Definitions.
''9802. Planning, notification, and reporting requirements.
''9803. Restrictions.
''9804. Recruitment, redesignation, and relocation bonuses.
''9805. Retention bonuses.
''9806. Term appointments.
''9807. Pay authority for critical positions.
''9808. Assignments of intergovernmental personnel.
''9809. Science and technology scholarship program.
''9810. Distinguished scholar appointment authority.
''9811. Travel and transportation expenses of certain new appointees
''9812. Annual leave enhancements.
''9813. Limited appointments to Senior Executive Service positions.
''9814. Qualifications pay.
''9815. Reporting requirement.

''§ 9801. Definitions

''For purposes of this chapter—

''(1) the term 'Administration' means the National Aeronautics and Space Administration;

''(2) the term 'Administrator' means the Administrator of the National Aeronautics and Space Administration;

''(3) the term 'critical need' means a specific and important safety, management, engineering, science, research, or operations requirement of the Administration's mission that the Administration is unable to fulfill because the Administration lacks the appropriate employees because—

''(A) of the inability to fill positions; or

''(B) employees do not possess the requisite skills;

''(4) the term 'employee' means an individual employed in or under the Administration;

''(5) the term 'workforce plan' means the plan required under section 9802(a);

''(6) the term 'appropriate committees of Congress' means—

''(A) the Committees on Government Reform, Science, and Appropriations of the House of Representatives; and

''(B) the Committees on Governmental Affairs, Commerce, Science, and Transportation, and Appropriations of the Senate;

''(7) the term 'redesignation bonus' means a bonus under section 9804 paid to an individual described in subsection (a)(2) thereof;

''(8) the term 'supervisor' has the meaning given such term by section 7103(a)(10); and

''(9) the term 'management official' has the meaning given such term by section 7103(a)(11).

''§ 9802. Planning, notification, and reporting requirements

''(a) Not later than 90 days before exercising any of the workforce authorities made available under this chapter, the Administrator shall submit a written plan to the appropriate committees of Congress. Such plan shall be approved by the Office of Personnel Management.

''(b) A workforce plan shall include a description of—

''(1) each critical need of the Administration and the criteria used in the identification of that need;

''(2)(A) the functions, approximate number, and classes or other categories of positions or employees that—

''(i) address critical needs; and

''(ii) would be eligible for each authority proposed to be exercised under this chapter; and

''(B) how the exercise of those authorities with respect to the eligible positions or employees involved would address each critical need identified under paragraph (1);

''(3)(A) any critical need identified under paragraph (1) which would not be addressed by the authorities made available under this chapter; and

''(B) the reasons why those needs would not be so addressed;

''(4) the specific criteria to be used in determining which individuals may receive the benefits described under sections 9804 and 9805 (including the criteria for granting bonuses in the absence of a critical need), and

how the level of those benefits will be determined;

''(5) the safeguards or other measures that will be applied to ensure that this chapter is carried out in a manner consistent with merit system principles;

''(6) the means by which employees will be afforded the notification required under subsections (c) and (d)(1)(B);

''(7) the methods that will be used to determine if the authorities exercised under this chapter have successfully addressed each critical need identified under paragraph (1);

''(8)(A) the recruitment methods used by the Administration before the enactment of this chapter to recruit highly qualified individuals; and

''(B) the changes the Administration will implement after the enactment of this chapter in order to improve its recruitment of highly qualified individuals, including how it intends to use—

''(i) nongovernmental recruitment or placement agencies; and

''(ii) Internet technologies; and

''(9) any workforce-related reforms required to resolve the findings and recommendations of the Columbia Accident Investigation Board, the extent to which those recommendations were accepted, and, if necessary, the reasons why any of those recommendations were not accepted.

''(c) Not later than 60 days before first exercising any of the workforce authorities made available under this chapter, the Administrator shall provide to all employees the workforce plan and any additional information which the Administrator considers appropriate.

''(d)(1)(A) The Administrator may from time to time modify the workforce plan. Any modification to the workforce plan shall be submitted to the Office of Personnel Management for approval by the Office before the modification may be implemented.

''(B) Not later than 60 days before implementing any such modifications, the Administrator shall provide an appropriately modified plan to all employees of the Administration and to the appropriate committees of Congress.

''(2) Any reference in this chapter or any other provision of law to the workforce plan shall be considered to include any modification made in accordance with this subsection.

''(e) Before submitting any written plan under subsection (a) (or modification under subsection (d)) to the Office of Personnel Management, the Administrator shall—

''(1) provide to each employee representative representing any employees who might be affected by such plan (or modification) a copy of the proposed plan (or modification);

''(2) give each representative 30 calendar days (unless extraordinary circumstances require earlier action) to review and make recommendations with respect to the proposed plan (or modification); and

''(3) give any recommendations received from any such representatives under paragraph (2) full and fair consideration in deciding whether or how to proceed with respect to the proposed plan (or modification).

''(f) None of the workforce authorities made available under this chapter may be exercised in a manner inconsistent with the workforce plan.

''(g) Whenever the Administration submits its performance plan under section 1115 of title 31 to the Office of Management and Budget for any year, the Administration shall at the same time submit a copy of such plan to the appropriate committees of Congress.

''(h) Not later than 6 years after the date of enactment of this chapter, the Administrator shall submit to the appropriate committees of Congress an evaluation and analysis of the actions taken by the Administration under this chapter, including—

''(1) an evaluation, using the methods described in subsection (b)(7), of whether the authorities exercised under this chapter successfully addressed each critical need identified under subsection (b)(1);

''(2) to the extent that they did not, an explanation of the reasons why any critical need (apart from the ones under subsection (b)(3)) was not successfully addressed; and

''(3) recommendations for how the Administration could address any remaining critical need and could prevent those that have been addressed from recurring.

''(i) The budget request for the Administration for the first fiscal year beginning after the date of enactment of this chapter and for each fiscal year thereafter shall include a statement of the total amount of appropriations requested for such fiscal year to carry out this chapter.

''§ 9803. Restrictions

''(a) None of the workforce authorities made available under this chapter may be exercised with respect to any officer who is appointed by the President, by and with the advice and consent of the Senate.

''(b) Unless specifically stated otherwise, all workforce authorities made available under this chapter shall be subject to section 5307.

''(c)(1) None of the workforce authorities made available under section 9804, 9805, 9806, 9807, 9809, 9812, 9813, 9814, or 9815 may be exercised with respect to a political appointee.

''(2) For purposes of this subsection, the term 'political appointee' means an employee who holds—

''(A) a position which has been excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character; or

''(B) a position in the Senior Executive Service as a noncareer appointee (as such term is defined in section 3132(a)).

''§ 9804. Recruitment, redesignation, and relocation bonuses

''(a) Notwithstanding section 5753, the Administrator may pay a bonus to an individual, in accordance with the workforce plan and subject to the limitations in this section, if—

''(1) the Administrator determines that the Administration would be likely, in the absence of a bonus, to encounter difficulty in filling a position; and

''(2) the individual—

''(A) is newly appointed as an employee of the Federal Government;

''(B) is currently employed by the Federal Government and is newly appointed to another position in the same geographic area; or

''(C) is currently employed by the Federal Government and is required to relocate to a different geographic area to accept a position with the Administration.

''(b) If the position is described as addressing a critical need in the workforce plan under section 9802(b)(2)(A), the amount of a bonus may not exceed—

''(1) 50 percent of the employee's annual rate of basic pay (including comparability payments under sections 5304 and 5304a) as of the beginning of the service period multiplied by the service period specified under subsection (d)(1)(B)(i); or

''(2) 100 percent of the employee's annual rate of basic pay (including comparability payments under sections 5304 and 5304a) as of the beginning of the service period.

''(c) If the position is not described as addressing a critical need in the workforce plan under section 9802(b)(2)(A), the amount of a bonus may not exceed 25 percent of the employee's annual rate of basic pay (excluding comparability payments under sections 5304 and 5304a) as of the beginning of the service period.

''(d)(1)(A) Payment of a bonus under this section shall be contingent upon the individual entering into a service agreement with the Administration.

''(B) At a minimum, the service agreement shall include—

''(i) the required service period;

''(ii) the method of payment, including a payment schedule, which may include a lump-sum payment, installment payments, or a combination thereof;

''(iii) the amount of the bonus and the basis for calculating that amount; and

''(iv) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed, and the effect of the termination.

''(2) For purposes of determinations under subsections (b)(1) and (c)(1), the employee's service period shall be expressed as the number equal to the full years and twelfth parts thereof, rounding the fractional part of a month to the nearest twelfth part of a year. The service period may not be less than 6 months and may not exceed 4 years.

''(3) A bonus under this section may not be considered to be part of the basic pay of an employee.

''(e) Before paying a bonus under this section, the Administration shall establish a plan for paying recruitment, redesignation, and relocation bonuses, subject to approval by the Office of Personnel Management.

''(f) No more than 25 percent of the total amount in bonuses awarded under subsection (a) in any year may be awarded to supervisors or management officials.

''§ 9805. Retention bonuses

''(a) Notwithstanding section 5754, the Administrator may pay a bonus to an employee, in accordance with the workforce plan and subject to the limitations in this section, if the Administrator determines that—

''(1) the unusually high or unique qualifications of the employee or a special need of the Administration for the employee's services makes it essential to retain the employee; and

''(2) the employee would be likely to leave in the absence of a retention bonus.

''(b) If the position is described as addressing a critical need in the workforce plan under section 9802(b)(2)(A), the amount of a bonus may not exceed 50 percent of the employee's annual rate of basic pay (including comparability payments under sections 5304 and 5304a).

''(c) If the position is not described as addressing a critical need in the workforce plan under section 9802(b)(2)(A), the amount of a bonus may not exceed 25 percent of the employee's annual rate of basic pay (excluding comparability payments under sections 5304 and 5304a).

''(d)(1)(A) Payment of a bonus under this section shall be contingent upon the employee entering into a service agreement with the Administration.

''(B) At a minimum, the service agreement shall include—

''(i) the required service period;

''(ii) the method of payment, including a payment schedule, which may include a lump-sum payment, installment payments, or a combination thereof;

''(iii) the amount of the bonus and the basis for calculating the amount; and

''(iv) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed, and the effect of the termination.

''(2) The employee's service period shall be expressed as the number equal to the full

years and twelfth parts thereof, rounding the fractional part of a month to the nearest twelfth part of a year. The service period may not be less than 6 months and may not exceed 4 years.

''(3) Notwithstanding paragraph (1), a service agreement is not required if the Administration pays a bonus in biweekly installments and sets the installment payment at the full bonus percentage rate established for the employee, with no portion of the bonus deferred. In this case, the Administration shall inform the employee in writing of any decision to change the retention bonus payments. The employee shall continue to accrue entitlement to the retention bonus through the end of the pay period in which such written notice is provided.

''(e) A bonus under this section may not be considered to be part of the basic pay of an employee.

''(f) An employee is not entitled to a retention bonus under this section during a service period previously established for that employee under section 5753 or under section 9804.

''(g) No more than 25 percent of the total amount in bonuses awarded under subsection (a) in any year may be awarded to supervisors or management officials.

''§ 9806. Term appointments

''(a) The Administrator may authorize term appointments within the Administration under subchapter I of chapter 33, for a period of not less than 1 year and not more than 6 years.

''(b) Notwithstanding chapter 33 or any other provision of law relating to the examination, certification, and appointment of individuals in the competitive service, the Administrator may convert an employee serving under a term appointment to a permanent appointment in the competitive service within the Administration without further competition if—

''(1) such individual was appointed under open, competitive examination under subchapter I of chapter 33 to the term position;

''(2) the announcement for the term appointment from which the conversion is made stated that there was potential for subsequent conversion to a career-conditional or career appointment;

''(3) the employee has completed at least 2 years of current continuous service under a term appointment in the competitive service;

''(4) the employee's performance under such term appointment was at least fully successful or equivalent; and

''(5) the position to which such employee is being converted under this section is in the same occupational series, is in the same geographic location, and provides no greater promotion potential than the term position for which the competitive examination was conducted.

''(c) Notwithstanding chapter 33 or any other provision of law relating to the examination, certification, and appointment of individuals in the competitive service, the Administrator may convert an employee serving under a term appointment to a permanent appointment in the competitive service within the Administration through internal competitive promotion procedures if the conditions under paragraphs (1) through (4) of subsection (b) are met.

''(d) An employee converted under this section becomes a career-conditional employee, unless the employee has otherwise completed the service requirements for career tenure.

''(e) An employee converted to career or career-conditional employment under this section acquires competitive status upon conversion.

''§ 9807. Pay authority for critical positions

''(a) In this section, the term 'position' means—

''(1) a position to which chapter 51 applies, including a position in the Senior Executive Service;

''(2) a position under the Executive Schedule under sections 5312 through 5317;

''(3) a position established under section 3104; or

''(4) a senior-level position to which section 5376(a)(1) applies.

''(b) Authority under this section—

''(1) may be exercised only with respect to a position that—

''(A) is described as addressing a critical need in the workforce plan under section 9802(b)(2)(A); and

''(B) requires expertise of an extremely high level in a scientific, technical, professional, or administrative field;

''(2) may be exercised only to the extent necessary to recruit or retain an individual exceptionally well qualified for the position; and

''(3) may be exercised only in retaining employees of the Administration or in appointing individuals who were not employees of another Federal agency as defined under section 5102(a)(1).

''(c)(1) Notwithstanding section 5377, the Administrator may fix the rate of basic pay for a position in the Administration in accordance with this section. The Administrator may not delegate this authority.

''(2) The number of positions with pay fixed under this section may not exceed 10 at any time.

''(d)(1) The rate of basic pay fixed under this section may not be less than the rate of basic pay (including any comparability payments) which would otherwise be payable for the position involved if this section had never been enacted.

''(2) The annual rate of basic pay fixed under this section may not exceed the per annum rate of salary payable under section 104 of title 3.

''(3) Notwithstanding any provision of section 5307, in the case of an employee who, during any calendar year, is receiving pay at a rate fixed under this section, no allowance, differential, bonus, award, or similar cash payment may be paid to such employee if, or to the extent that, when added to basic pay paid or payable to such employee (for service performed in such calendar year as an employee in the executive branch or as an employee outside the executive branch to whom chapter 51 applies), such payment would cause the total to exceed the per annum rate of salary which, as of the end of such calendar year, is payable under section 104 of title 3.

''§ 9808. Assignments of intergovernmental personnel

''For purposes of applying the third sentence of section 3372(a) (relating to the authority of the head of a Federal agency to extend the period of an employee's assignment to or from a State or local government, institution of higher education, or other organization), the Administrator may, with the concurrence of the employee and the government or organization concerned, take any action which would be allowable if such sentence had been amended by striking 'two' and inserting 'four'.

''§ 9809. Science and technology scholarship program

''(a)(1) The Administrator shall establish a National Aeronautics and Space Administration Science and Technology Scholarship Program to award scholarships to individuals that is designed to recruit and prepare students for careers in the Administration.

''(2) Individuals shall be selected to receive scholarships under this section through a competitive process primarily on the basis of academic merit, with consideration given to financial need and the goal of promoting the participation of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act.

''(3) To carry out the Program the Administrator shall enter into contractual agreements with individuals selected under paragraph (2) under which the individuals agree to serve as full-time employees of the Administration, for the period described in subsection (f)(1), in positions needed by the Administration and for which the individuals are qualified, in exchange for receiving a scholarship.

''(b) In order to be eligible to participate in the Program, an individual must—

''(1) be enrolled or accepted for enrollment as a full-time student at an institution of higher education in an academic field or discipline described in the list made available under subsection (d);

''(2) be a United States citizen or permanent resident; and

''(3) at the time of the initial scholarship award, not be an employee (as defined in section 2105).

''(c) An individual seeking a scholarship under this section shall submit an application to the Administrator at such time, in such manner, and containing such information, agreements, or assurances as the Administrator may require.

''(d) The Administrator shall make publicly available a list of academic programs and fields of study for which scholarships under the Program may be utilized and shall update the list as necessary.

''(e)(1) The Administrator may provide a scholarship under the Program for an academic year if the individual applying for the scholarship has submitted to the Administrator, as part of the application required under subsection (c), a proposed academic program leading to a degree in a program or field of study on the list made available under subsection (d).

''(2) An individual may not receive a scholarship under this section for more than 4 academic years, unless the Administrator grants a waiver.

''(3) The dollar amount of a scholarship under this section for an academic year shall be determined under regulations issued by the Administrator, but shall in no case exceed the cost of attendance.

''(4) A scholarship provided under this section may be expended for tuition, fees, and other authorized expenses as established by the Administrator by regulation.

''(5) The Administrator may enter into a contractual agreement with an institution of higher education under which the amounts provided for a scholarship under this section for tuition, fees, and other authorized expenses are paid directly to the institution with respect to which the scholarship is provided.

''(f)(1) The period of service for which an individual shall be obligated to serve as an employee of the Administration is, except as provided in subsection (h)(2), 24 months for each academic year for which a scholarship under this section is provided. Under no circumstances shall the total period of obligated service be more than 4 years.

''(2)(A) Except as provided in subparagraph (B), obligated service under paragraph (1) shall begin not later than 60 days after the individual obtains the educational degree for which the scholarship was provided.

''(B) The Administrator may defer the obligation of an individual to provide a period of service under paragraph (1) if the Administrator determines that such a deferral is appropriate. The Administrator shall prescribe

the terms and conditions under which a service obligation may be deferred through regulation.

''(g)(1) Scholarship recipients who fail to maintain a high level of academic standing, as defined by the Administrator by regulation, who are dismissed from their educational institutions for disciplinary reasons, or who voluntarily terminate academic training before graduation from the educational program for which the scholarship was awarded, shall be in breach of their contractual agreement and, in lieu of any service obligation arising under such agreement, shall be liable to the United States for repayment within 1 year after the date of default of all scholarship funds paid to them and to the institution of higher education on their behalf under the agreement, except as provided in subsection (h)(2). The repayment period may be extended by the Administrator when determined to be necessary, as established by regulation.

''(2) Scholarship recipients who, for any reason, fail to begin or complete their service obligation after completion of academic training, or fail to comply with the terms and conditions of deferment established by the Administrator pursuant to subsection (f)(2)(B), shall be in breach of their contractual agreement. When recipients breach their agreements for the reasons stated in the preceding sentence, the recipient shall be liable to the United States for an amount equal to—

''(A) the total amount of scholarships received by such individual under this section; plus

''(B) the interest on the amounts of such awards which would be payable if at the time the awards were received they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States,

multiplied by 3.

''(h)(1) Any obligation of an individual incurred under the Program (or a contractual agreement thereunder) for service or payment shall be canceled upon the death of the individual.

''(2) The Administrator shall by regulation provide for the partial or total waiver or suspension of any obligation of service or payment incurred by an individual under the Program (or a contractual agreement thereunder) whenever compliance by the individual is impossible or would involve extreme hardship to the individual, or if enforcement of such obligation with respect to the individual would be contrary to the best interests of the Government.

''(i) For purposes of this section—

''(1) the term 'cost of attendance' has the meaning given that term in section 472 of the Higher Education Act of 1965;

''(2) the term 'institution of higher education' has the meaning given that term in section 101(a) of the Higher Education Act of 1965; and

''(3) the term 'Program' means the National Aeronautics and Space Administration Science and Technology Scholarship Program established under this section.

''(j)(1) There is authorized to be appropriated to the Administration for the Program $10,000,000 for each fiscal year.

''(2) Amounts appropriated under this section shall remain available for 2 fiscal years.

''§ 9810. Distinguished scholar appointment authority

''(a) In this section—

''(1) the term 'professional position' means a position that is classified to an occupational series identified by the Office of Personnel Management as a position that—

''(A) requires education and training in the principles, concepts, and theories of the occupation that typically can be gained only through completion of a specified curriculum at a recognized college or university; and

''(B) is covered by the Group Coverage Qualification Standard for Professional and Scientific Positions; and

''(2) the term 'research position' means a position in a professional series that primarily involves scientific inquiry or investigation, or research-type exploratory development of a creative or scientific nature, where the knowledge required to perform the work successfully is acquired typically and primarily through graduate study.

''(b) The Administration may appoint, without regard to the provisions of section 3304(b) and sections 3309 through 3318, but subject to subsection (c), candidates directly to General Schedule professional, competitive service positions in the Administration for which public notice has been given (in accordance with regulations of the Office of Personnel Management), if—

''(1) with respect to a position at the GS–7 level, the individual—

''(A) received, within 2 years before the effective date of the appointment, from an accredited institution authorized to grant baccalaureate degrees, a baccalaureate degree in a field of study for which possession of that degree in conjunction with academic achievements meets the qualification standards as prescribed by the Office of Personnel Management for the position to which the individual is being appointed; and

''(B) achieved a cumulative grade point average of 3.0 or higher on a 4.0 scale and a grade point average of 3.5 or higher for courses in the field of study required to qualify for the position;

''(2) with respect to a position at the GS–9 level, the individual—

''(A) received, within 2 years before the effective date of the appointment, from an accredited institution authorized to grant graduate degrees, a graduate degree in a field of study for which possession of that degree meets the qualification standards at this grade level as prescribed by the Office of Personnel Management for the position to which the individual is being appointed; and

''(B) achieved a cumulative grade point average of 3.5 or higher on a 4.0 scale in graduate coursework in the field of study required for the position;

''(3) with respect to a position at the GS–11 level, the individual—

''(A) received, within 2 years before the effective date of the appointment, from an accredited institution authorized to grant graduate degrees, a graduate degree in a field of study for which possession of that degree meets the qualification standards at this grade level as prescribed by the Office of Personnel Management for the position to which the individual is being appointed; and

''(B) achieved a cumulative grade point average of 3.5 or higher on a 4.0 scale in graduate coursework in the field of study required for the position; or

''(4) with respect to a research position at the GS–12 level, the individual—

''(A) received, within 2 years before the effective date of the appointment, from an accredited institution authorized to grant graduate degrees, a graduate degree in a field of study for which possession of that degree meets the qualification standards at this grade level as prescribed by the Office of Personnel Management for the position to which the individual is being appointed; and

''(B) achieved a cumulative grade point average of 3.5 or higher on a 4.0 scale in graduate coursework in the field of study required for the position.

''(c) In making any selections under this section, preference eligibles who meet the criteria for distinguished scholar appointments shall be considered ahead of nonpreference eligibles.

''(d) An appointment made under this authority shall be a career-conditional appointment in the competitive civil service.

''§ 9811. Travel and transportation expenses of certain new appointees

''(a) In this section, the term 'new appointee' means—

''(1) a person newly appointed or reinstated to Federal service to the Administration to—

''(A) a career or career-conditional appointment or an excepted service appointment to a continuing position;

''(B) a term appointment;

''(C) an excepted service appointment that provides for noncompetitive conversion to a career or career-conditional appointment;

''(D) a career or limited term Senior Executive Service appointment;

''(E) an appointment made under section 203(c)(2)(A) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2473(c)(2)(A));

''(F) an appointment to a position established under section 3104; or

''(G) an appointment to a position established under section 5108; or

''(2) a student trainee who, upon completion of academic work, is converted to an appointment in the Administration that is identified in paragraph (1) in accordance with an appropriate authority.

''(b) The Administrator may pay the travel, transportation, and relocation expenses of a new appointee to the same extent, in the same manner, and subject to the same conditions as the payment of such expenses under sections 5724, 5724a, 5724b, and 5724c to an employee transferred in the interests of the United States Government.

''§ 9812. Annual leave enhancements

''(a) In this section—

''(1) the term 'newly appointed employee' means an individual who is first appointed—

''(A) as an employee of the Federal Government; or

''(B) as an employee of the Federal Government following a break in service of at least 90 days after that individual's last period of Federal employment, other than—

''(i) employment under the Student Educational Employment Program administered by the Office of Personnel Management;

''(ii) employment as a law clerk trainee;

''(iii) employment under a short-term temporary appointing authority while a student during periods of vacation from the educational institution at which the student is enrolled;

''(iv) employment under a provisional appointment if the new appointment is permanent and immediately follows the provisional appointment; or

''(v) employment under a temporary appointment that is neither full-time nor the principal employment of the individual;

''(2) the term 'period of qualified non-Federal service' means any period of service performed by an individual that—

''(A) was performed in a position the duties of which were directly related to the duties of the position in the Administration which that individual will fill as a newly appointed employee; and

''(B) except for this section, would not otherwise be service performed by an employee for purposes of section 6303; and

''(3) the term 'directly related to the duties of the position' means duties and responsibilities in the same line of work which require similar qualifications.

''(b)(1) For purposes of section 6303, the Administrator may deem a period of qualified non-Federal service performed by a newly appointed employee to be a period of service of equal length performed as an employee.

''(2) A decision under paragraph (1) to treat a period of qualified non-Federal service as if

it were service performed as an employee shall continue to apply so long as that individual serves in or under the Administration.

''(c)(1) Notwithstanding section 6303(a), the annual leave accrual rate for an employee of the Administration in a position paid under section 5376 or 5383, or for an employee in an equivalent category whose rate of basic pay is greater than the rate payable at GS–15, step 10, shall be 1 day for each full biweekly pay period.

''(2) The accrual rate established under this subsection shall continue to apply to the employee so long as such employee serves in or under the Administration.

''§ 9813. Limited appointments to Senior Executive Service positions

''(a) In this section—

''(1) the term 'career reserved position' means a position in the Administration designated under section 3132(b) which may be filled only by—

''(A) a career appointee; or

''(B) a limited emergency appointee or a limited term appointee—

''(i) who, immediately before entering the career reserved position, was serving under a career or career-conditional appointment outside the Senior Executive Service; or

''(ii) whose limited emergency or limited term appointment is approved in advance by the Office of Personnel Management;

''(2) the term 'limited emergency appointee' has the meaning given under section 3132; and

''(3) the term 'limited term appointee' means an individual appointed to a Senior Executive Service position in the Administration to meet a bona fide temporary need, as determined by the Administrator.

''(b) The number of career reserved positions which are filled by an appointee as described under subsection (a)(1)(B) may not exceed 10 percent of the total number of Senior Executive Service positions allocated to the Administration.

''(c) Notwithstanding sections 3132 and 3394(b)—

''(1) the Administrator may appoint an individual to any Senior Executive Service position in the Administration as a limited term appointee under this section for a period of—

''(A) 4 years or less to a position the duties of which will expire at the end of such term; or

''(B) 1 year or less to a position the duties of which are continuing; and

''(2) in rare circumstances, the Administrator may authorize an extension of a limited appointment under—

''(A) paragraph (1)(A) for a period not to exceed 2 years; and

''(B) paragraph (1)(B) for a period not to exceed 1 year.

''(d) A limited term appointee who has been appointed in the Administration from a career or career-conditional appointment outside the Senior Executive Service shall have reemployment rights in the agency from which appointed, or in another agency, under requirements and conditions established by the Office of Personnel Management. The Office shall have the authority to direct such placement in any agency.

''(e) Notwithstanding section 3394(b) and section 3395—

''(1) a limited term appointee serving under a term prescribed under this section may be reassigned to another Senior Executive Service position in the Administration, the duties of which will expire at the end of a term of 4 years or less; and

''(2) a limited term appointee serving under a term prescribed under this section may be reassigned to another continuing Senior Executive Service position in the Administration, except that the appointee may not serve in 1 or more positions in the Administration under such appointment in excess of 1 year, except that in rare circumstances, the Administrator may approve an extension up to an additional 1 year.

''(f) A limited term appointee may not serve more than 7 consecutive years under any combination of limited appointments.

''(g) Notwithstanding section 5384, the Administrator may authorize performance awards to limited term appointees in the Administration in the same amounts and in the same manner as career appointees.

''§ 9814. Qualifications pay

''(a) Notwithstanding section 5334, the Administrator may set the pay of an employee paid under the General Schedule at any step within the pay range for the grade of the position, if such employee—

''(1) possesses unusually high or unique qualifications; and

''(2) is assigned—

''(A) new duties, without a change of position; or

''(B) to a new position.

''(b) If an exercise of the authority under this section relates to a current employee selected for another position within the Administration, a determination shall be made that the employee's contribution in the new position will exceed that in the former position, before setting pay under this section.

''(c) Pay as set under this section is basic pay for such purposes as pay set under section 5334.

''(d) If the employee serves for at least 1 year in the position for which the pay determination under this section was made, or a successor position, the pay earned under such position may be used in succeeding actions to set pay under chapter 53.

''(e) Before setting any employee's pay under this section, the Administrator shall submit a plan to the Office of Personnel Management and the appropriate committees of Congress, that includes—

''(1) criteria for approval of actions to set pay under this section;

''(2) the level of approval required to set pay under this section;

''(3) all types of actions and positions to be covered;

''(4) the relationship between the exercise of authority under this section and the use of other pay incentives; and

''(5) a process to evaluate the effectiveness of this section.

''§ 9815. Reporting requirement

''The Administrator shall submit to the appropriate committees of Congress, not later than February 28 of each of the next 6 years beginning after the date of enactment of this chapter, a report that provides the following:

''(1) A summary of all bonuses paid under subsections (b) and (c) of section 9804 during the preceding fiscal year. Such summary shall include the total amount of bonuses paid, the total number of bonuses paid, the percentage of the amount of bonuses awarded to supervisors and management officials, and the average percentage used to calculate the total average bonus amount, under each of those subsections.

''(2) A summary of all bonuses paid under subsections (b) and (c) of section 9805 during the preceding fiscal year. Such summary shall include the total amount of bonuses paid, the total number of bonuses paid, the percentage of the amount of bonuses awarded to supervisors and management officials, and the average percentage used to calculate the total average bonus amount, under each of those subsections.

''(3) The total number of term appointments converted during the preceding fiscal year under section 9806 and, of that total number, the number of conversions that were made to address a critical need described in the workforce plan pursuant to section 9802(b)(2).

''(4) The number of positions for which the rate of basic pay was fixed under section 9807 during the preceding fiscal year, the number of positions for which the rate of basic pay under such section was terminated during the preceding fiscal year, and the number of times the rate of basic pay was fixed under such section to address a critical need described in the workforce plan pursuant to section 9802(b)(2).

''(5) The number of scholarships awarded under section 9809 during the preceding fiscal year and the number of scholarship recipients appointed by the Administration during the preceding fiscal year.

''(6) The total number of distinguished scholar appointments made under section 9810 during the preceding fiscal year and, of that total number, the number of appointments that were made to address a critical need described in the workforce plan pursuant to section 9802(b)(2).

''(7) The average amount paid per appointee, and the largest amount paid to any appointee, under section 9811 during the preceding fiscal year for travel and transportation expenses.

''(8) The total number of employees who were awarded enhanced annual leave under section 9812 during the preceding fiscal year; of that total number, the number of employees who were serving in a position addressing a critical need described in the workforce plan pursuant to section 9802(b)(2); and, for employees in each of those respective groups, the average amount of additional annual leave such employees earned in the preceding fiscal year (over and above what they would have earned absent section 9812).

''(9) The total number of appointments made under section 9813 during the preceding fiscal year and, of that total number, the number of appointments that were made to address a critical need described in the workforce plan pursuant to section 9802(b)(2).

''(10) The number of employees for whom the Administrator set the pay under section 9814 during the preceding fiscal year and the number of times pay was set under such section to address a critical need described in the workforce plan pursuant to section 9802(b)(2).

''(11) A summary of all recruitment, relocation, redesignation, and retention bonuses paid under authorities other than this chapter and excluding the authorities provided in sections 5753 and 5754 of this title, during the preceding fiscal year. Such summary shall include, for each type of bonus, the total amount of bonuses paid, the total number of bonuses paid, the percentage of the amount of bonuses awarded to supervisors and management officials, and the average percentage used to calculate the total average bonus amount.''.

(b) CLERICAL AMENDMENT.—The table of chapters for part III of title 5, United States Code, is amended by adding at the end the following:

''98. National Aeronautics and Space Administration ..... 9801''.

The CHAIRMAN. During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered read.

Are there any amendments to the bill?

AMENDMENT OFFERED BY MR. FLAKE

Mr. FLAKE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FLAKE:

Page 9, after line 15, insert the following:

''(j) The budget requests for the Administration for the second fiscal year beginning after the date of enactment of this chapter and for each fiscal year thereafter shall include a statement that demonstrates that the amount that was requested to carry out this chapter for the previous year was equal to or less than reductions in specific item budget requests made for that same year.

Page 42, line 2, strike the closing quotation marks and the last period.

Page 42, after line 2, insert the following:

''(12) A statement including the following:

''(A) The total amount of appropriations requested for the previous fiscal year to carry out this chapter.

''(B) Total outlays expended during the previous fiscal year to carry out this chapter.

''(C) A summary of all cost-cutting initiatives implemented and carried out by the Administration during the previous fiscal year to carry out this chapter.

''(D) An estimate of the total amount of appropriations to be requested by the Administration for the next fiscal year to carry out this chapter.

''(E) A written plan to implement cost-cutting initiatives during the next fiscal year to carry out this chapter. Such plan shall demonstrate that the estimated savings resulting from cost-cutting initiatives to be implemented during the next fiscal year shall be equal to or exceed the estimate of the appropriations request for the next fiscal year to carry out this chapter.''.

Mr. FLAKE. Mr. Chairman, what the Flake amendment does, and I listened to the discussion about the merits of the bill, and I am compelled that we do need to do this. This is a good bill. We need to give NASA the flexibility they need to hire good people and retain them. I am not questioning the merits of the bill at all. I am simply saying in this era of big deficits and the spending problem that we have in Congress, we ought to ensure that any new authorization is met with some spending restraint on the other side and we pay for the money we are spending here.

The Flake amendment would require NASA to submit to Congress a plan to offset new spending authorized under this legislation with budget reductions elsewhere in the NASA budget. The Flake amendment gives NASA the flexibility to choose which budget request to target for reduction. We are not telling them how to do it; we are simply saying please match this funding with similar reductions.

The report that NASA must give when they get this money must demonstrate that spending requests for provisions authorized under this legislation are matched with corresponding budget cuts in other specific budget items. Adoption of the Flake amendment gives Congress the opportunity to ensure that new spending authorization for must-have workplace flexibility is met with spending restraints.

The CBO estimates that S. 610 will cost $80 million over the 2004–2008 period. There has been no indication that the new authorized spending will be prioritized against the spending accounts. While the workforce flexibility afforded to NASA under S. 610 is positive and market-oriented, NASA should identify areas of spending that can be reduced to offset new costs.

In November, Congress passed a $400 billion Medicare bill. The Senate passed the final omnibus package which totaled over $370 billion in spending. That has been signed into law. Two days ago, the CBO announced that we have a $477 billion projected deficit. If you include draws on the trust fund, that brings it all of the way up to just under $700 billion for the coming year. It is time to exercise some fiscal restraint. That is what the Flake amendment is designed to do.

Mr. BOEHLERT. Mr. Chairman, I rise in opposition to the amendment.

I want to thank the gentleman for his explanation of the amendment. The gentleman from Arizona is a very thoughtful Member, and he contributes significantly to the deliberations of this body. However, let me say a couple of things.

First of all, this legislation will give flexibility to NASA to work within the existing constraints. No new money, we are not coming up with a ton of new money or anything else. We are saying they have an existing budget for personnel and they have more flexibility with it. We are treating them like a business. I think that is very important.

We have to stem the tide of this brain drain. It is very serious. As the gentleman from Virginia (Mr. TOM DAVIS) pointed out, within 5 years, 25 percent of the workforce is eligible for retirement. We have 15 percent eligible for retirement right now. Those over 60 outnumber by three to one those under 30. It is a very serious problem. We tried to address it in a very responsible way. We did not address like some people around here suggest we address problems, give them a blank check. We did not do that. We said, no, they have to use their existing personnel accounts, no additional money; but we give them flexibility. Having said that, let me point out something else. There is a very practical reason why we should not accept this amendment and should go forward today. We have to get the bill to the President for his signature. This is a bill that has passed unanimously in the Senate, a bill that is going to pass by substantial margin here in the House, hopefully unanimously.

If we amend it, here is what is going to happen. This is something which has been cooking for months now. We just got the amendment today, and that is why I appreciate the explanation. I had not seen the amendment before. We received a thorough, sound, reasoned explanation; but if we pass this amendment, the bill is amended, and it goes back to the Senate, and we start all over again back and forth like a ping-pong match. We have preconferenced this bill. We worked it out with the Senate. They send it back here, we vote ''aye'' today, it goes to the President, he signs it, and we get on with the job of giving NASA the flexibility it needs.

I would urge my colleagues to vote against the amendment. I thank the gentleman from Arizona (Mr. FLAKE) for his thoughtful presentation.

Mr. FLAKE. Mr. Chairman, will the gentleman yield?

Mr. BOEHLERT. I yield to the gentleman from Arizona.

Mr. FLAKE. Mr. Chairman, I think it is not unreasonable to ask to go back to the Senate. I think Members agree this flexibility is needed. It is market-oriented. We need to make sure that NASA retains and hires good people.

Many of my colleagues that I have spoken to in the last day on this subject have indicated that they were informed this would not cost anything, this would be totally from NASA's own budget. Yet the CBO estimates that it will cost $80 billion over the next 4 years. If that is the case that it draws only on NASA's budget, if it is the case that it does not cost anything, I would submit that there is no problem here, that it does not increase spending.

So all our amendment says is to the degree it does, if it is going to increase spending and if we are going to have to authorize new spending, it should be matched with spending reductions elsewhere in the budget.

The NASA budget for personnel is $2 billion a year. I do not believe it is unreasonable to ask for those kinds of spending reductions.

Mr. TOM DAVIS of Virginia. Mr. Chairman, will the gentleman yield?

Mr. BOEHLERT. I yield to the gentleman from Virginia.

Mr. TOM DAVIS of Virginia. Mr. Chairman, my question is what are the CBO costs on this?

Mr. FLAKE. Mr. Chairman, will the gentleman yield?

Mr. BOEHLERT. I yield to the gentleman from Arizona.

Mr. FLAKE. Mr. Chairman, I would say to the gentleman that the personnel costs for NASA are $2 billion per year, with a ''B.'' The costs that CBO projects for this are $80 million.

Mr. BOEHLERT. Reclaiming my time, that is within the existing personnel allocation. This is not additional money, additional to the $2 billion. They are saying if NASA took advantage of all these programs, scholarships, retention incentives, moving expenses, the types of things that happen every single day in the business community, they have to do it with the existing personnel budget, no new money.

I am like the gentleman from Arizona, perhaps not as fiscally conservative, but I am moving in that direction. But the point is this does not add money; it allows more flexibility. The estimates that the gentleman from Arizona are referring to are estimates on what this could cost from the existing budget by using the flexibility that we are proposing.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I move to strike the last word.

Again, the gentleman from Arizona (Mr. FLAKE) and I have worked together on so many battles. I respect what the gentleman is trying to do here, but I have to oppose this amendment for several reasons.

First of all, as the chairman of the Committee on Science noted, if we amend this bill today, it goes back to the other body, the black hole. We have been waiting a long time to get these personnel changes into effect so we can go out and retain part of that workforce that is now contemplating retiring, and we can start retaining the best and brightest out of our universities. Every day we delay that, we lose flexibility to do that.

The NASA budget is $15.5 billion. The personnel costs are only $2 billion. If we want to go after NASA's budget or start holding it down, the way to control that is by their section 302(b) allocation through the appropriations process. It is designed that NASA will eat these costs under the current appropriations. They may pay a little more for personnel in some areas and may pay less in some areas, but they have to do it under the budget that we pass. This appropriates no additional money, but it does give them flexibility to pay people at the top, our top rocket scientists, top engineers, and top program managers, the kind of dollars that will keep them in the program and recruit some of our best people into our space program instead of going out into the private sector where they can gain a lot more money.

The costs of failure of not doing this are much greater. A failed launch, cost delays, those costs are literally astronomical, if we are to do that; and that is what we are trying to eliminate here, the downside of not passing this. It is a cost-avoidance issue.

We control this through the budget process, the section 302(b) allocations that we make and budget, and there are no additional monies appropriated. These costs will be eaten up within the NASA budget, and there is plenty of flexibility to do this. There is a $15.5 billion budget, $2 billion for personnel costs, and $80 million can be reallocated without any additional cost to American taxpayers; and we can retain and recruit some of the quality people that are needed to run this space program and keep it going on the right track.

It is for those reasons that I urge my colleagues to vote against this amendment.

Mr. GORDON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we were not given notice of this amendment; but on quick and brief review, it seems to be a well-intentioned amendment that does not improve the bill. It seeks to solve a problem that does not exist, so I want to concur with the gentleman from Virginia (Mr. TOM DAVIS) and the gentleman from New York (Mr. BOEHLERT) in opposing this amendment.

Mr. FLAKE. Mr. Chairman, I ask unanimous consent to strike the requisite number of words.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. FLAKE. Mr. Chairman, I would like to engage in a colloquy with the sponsor of the bill. There seems to be some confusion as to whether or not this is new authorization for additional spending over and above NASA's personnel costs which have already been approved.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. FLAKE. I yield to the gentleman from New York.

□ 1145

Mr. BOEHLERT. Mr. Chairman, that is a legitimate concern expressed by the gentleman. Let me assure him, this is not additional money. This says to NASA, using your existing personnel allocation, we are giving you flexibility.

We say constantly, why does government not operate more like business, like they do in the real world? We are trying to give NASA that opportunity. We are not giving them a blank check. We are not giving them the key to the Treasury. We are just saying, existing dollars, you have more flexibility to retain the workforce you need to do the job we expect you to do.

Mr. FLAKE. Let me rephrase the question. If NASA takes advantage of the new flexibility given them to the fullest extent, will it have an additional draw on the Treasury or will it be totally within NASA's existing budget?

Mr. BOEHLERT. My counsel just advises me, it depends on what the appropriators do in future appropriations. But the answer is clearly ''no.'' I know what the gentleman's intent is, his intent as I understand it, and that is why I appreciate the thoughtful presentation he gave on the floor today. I wish we had had it earlier. As Chairman ROHRABACHER has said, he takes a back seat to no one in being concerned about how we spend money around here.

So I agree with the basic intention. It is not to have additional money spent for NASA on personnel. It is to give them flexibility on the existing money we appropriate for them. Who knows, with the President's vision outlined, for this new Mars vision, eventually a generation or two ahead of us and the Moon in this generation, if the Congress decides to be supportive of that, there are going to be budget differences; but I want to assure the gentleman that our intent is to give NASA the flexibility to use existing dollars, not to add to the allocation or appropriation for NASA on personnel or any other thing.

Mr. FLAKE. So the CBO estimates of the cost are simply within NASA's own budget?

Mr. BOEHLERT. That is right.

Mr. FLAKE. With that explanation, I will withdraw the amendment assuming that we are on the same page.

Mr. BOEHLERT. I thank the gentleman.

Mr. FLAKE. Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The CHAIRMAN. Are there any other amendments?

Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. FLAKE) having assumed the chair, Mr. ISAKSON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the Senate bill (S. 610) to amend the provisions of title 5, United States Code, to provide for workforce flexibilities and certain Federal personnel provisions relating to the National Aeronautics and Space Administration, and for other purposes, pursuant to House Resolution 502, he reported the Senate bill back to the House.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the third reading of the Senate bill.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 11 o'clock and 49 minutes a.m.), the House stood in recess subject to the call of the Chair.

□ 1300

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. LAHOOD) at 1 p.m.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Ms. Wanda Evans, one of his secretaries.

PROVIDING FOR CONSIDERATION OF S. 1920, BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2003

Mr. SESSIONS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 503 and ask for its immediate consideration.