

NASA FLEXIBILITY ACT OF 2003

AUGUST 4, 2003.—Committed to the Committee of the Whole House on the State  
of the Union and ordered to be printed

Mr. BOEHLERT, from the Committee on Science,  
submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 1085]

[Including cost estimate of the Congressional Budget Office]

The Committee on Science, to whom was referred the bill (H.R. 1085) to make certain workforce authorities available to the National Aeronautics and Space Administration, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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## I. AMENDMENT

The amendment is as follows:  
Strike all after the enacting clause and insert the following:

### 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. Enhanced demonstration project authority.
- “9810. Science and technology scholarship program.
- “9811. Distinguished scholar appointment authority.
- “9812. Travel and transportation expenses of certain new appointees.
- “9813. Annual leave enhancements.
- “9814. Limited appointments to Senior Executive Service positions.
- “9815. Qualifications pay.
- “9816. 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 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 developed in consultation with 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;

“(9) any reforms to the Administration’s workforce management practices recommended by 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; and

“(10) the safeguards and other measures that will be applied to ensure that this chapter is carried out in a manner that does not compromise the safety or survival of any spacecraft or crew thereof.

“(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. Not later than 60 days before implementing any such modifications, the Administrator shall submit a description of the proposed modifications to the appropriate committees of Congress.

“(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 appropriate committees of Congress, 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, 9810, 9813, 9814, 9815, or 9816 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—

“(1) 25 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.

“(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 (including 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. Enhanced demonstration project authority**

“When conducting a demonstration project at the Administration, section 4703(d)(1)(A) may be applied by substituting ‘8,000’ for ‘5,000’.

**“§ 9810. 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, as a junior or senior undergraduate or graduate student, 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.

“(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.

#### “§ 9811. 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 re-



quired 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 non-preference eligibles.

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

**“§ 9812. 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;

“(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.

**“§ 9813. 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.

**“§ 9814. Limited appointments to Senior Executive Service positions**

“(a) In this section, the terms ‘career reserved position’, ‘Senior Executive Service position’, ‘senior executive’ and ‘career appointee’ have the meanings set forth in section 3132(a).

“(b) Subject to succeeding provisions of this section, the Administrator may, notwithstanding any other provision of this title, fill a career reserved position on a temporary basis, but only if—

- “(1) such position is vacant as a result of—
  - “(A) the separation of the incumbent; or
  - “(B) the temporary absence of the incumbent due to illness, training, or reassignment; or

“(2) such position is or would be difficult to fill in any other manner due to the fact that such position is likely to be eliminated within the next 2 years.

“(c) Notwithstanding sections 3132 and 3394(b), an appointment made by the Administrator under subsection (b) shall not exceed 2 years.

“(d) The Administrator may extend an appointment under subsection (b) for as long as necessary to meet a contingency described in subsection (b)(1), but for not to exceed 1 year and not if the circumstance described in subsection (b)(2) pertains.

“(e) The number of career reserved positions filled under subsection (b) may not at any time exceed 10 percent of the total number of Senior Executive Service positions then authorized for the Administration under section 3133.

“(f) An individual appointed to a career reserved position on a temporary basis under subsection (b) shall, if such individual was so appointed from a civil service position held under a career or career-conditional appointment, be entitled, upon completion of that temporary appointment, to be reemployed in the position from

which such individual was so appointed (or an equivalent position), in accordance with such regulations as the Office of Personnel Management may prescribe.

“(g) An appointment to a career reserved position on a temporary basis under subsection (b) may not be made without the prior approval of the Office of Personnel Management if the individual—

“(1) is to be appointed—

“(A) from outside the Federal Government; or

“(B) from a civil service position held under an appointment other than a career or career-conditional appointment; or

“(2) is a senior executive, but not a career appointee.

“(h) An individual appointed to a career reserved position on a temporary basis under subsection (b) who is not a career appointee shall, for purposes of performance awards under section 5384, be treated as a career appointee.

**“§ 9815. 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.

**“§ 9816. 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)–(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 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)–(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 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 9810 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 9811 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 9812 during the preceding fiscal year for travel and transportation expenses.

“(8) The total number of employees who were awarded enhanced annual leave under section 9813 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 9813).

“(9) The total number of appointments made under section 9814 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 9815 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).”

(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”.

**SEC. 4. WORKFORCE DIVERSITY.**

It is the sense of the Congress that the National Aeronautics and Space Administration should, in accordance with section 7201 of title 5, United States Code, conduct a continuing program for the recruitment of members of minority groups for positions in the Administration to carry out the policy set forth in subsection (b) of such section in a manner designed to eliminate underrepresentation of minorities in the various categories of civil service employment within the Federal service, with special efforts directed at recruiting in minority communities, in educational institutions, and from other sources from which minorities can be recruited.

**II. PURPOSE OF THE BILL**

The purpose of H.R. 1085 is to provide specified workforce authorities to NASA, to require certain notification, planning, and reporting to Congress, NASA employees, and NASA employee representatives about the use of these workforce authorities, to establish a science and technology scholarship program and authorize funding for this program, and for other purposes.

**III. BACKGROUND AND NEED FOR THE LEGISLATION**

In May 2002, NASA proposed to the Committee a list of changes to civil service law designed to improve NASA’s ability to recruit and retain highly skilled scientists, engineers, and program managers. The agency proposed additional changes in February 2003. NASA found it needed additional recruitment and retention tools because of the declines in university enrollment for U.S. students in technical fields, increased hiring competition from industry and academia for technical skills, and a lack of minority and gender diversity in the scientists and engineers (S&E) talent pool. NASA also identified several workforce trends within the agency that posed a significant threat to its ability to support its technical programs and address the agency’s management challenges. From fiscal year 1993 to 2000, NASA reduced its civil service workforce by 26 percent. Within NASA’s S&E workforce, the over-60 population outnumbers its under-30 population by nearly 3 to 1. At some NASA centers, the ratio is more than 5 to 1. By contrast, in 1993,

the under-30 S&E workforce outnumbered the over-60 group by almost 2 to 1. Approximately 15 percent of NASA's S&E employees are currently eligible to retire, and within five years, almost 25 percent of NASA's S&E workforce will be retirement eligible.

Several reports have independently identified problems in the U.S. science and engineering workforce pipeline and the NASA workforce. Since 2001, the General Accounting Office (GAO) has ranked "strengthening human capital" as one of NASA's top management challenges. The GAO reported in January 2003: "NASA is facing shortages in its workforce, which could likely worsen as the workforce continues to age and the pipeline of talent shrinks. This dilemma is more pronounced among areas crucial to NASA's ability to perform its mission, such as engineering, science, and information technology." Similarly, NASA's independent Aerospace Safety Advisory Panel reported in 2000 and 2001: "The critical skills challenge faced by NASA \* \* \* in Space Shuttle and International Space Station programs continues. Recent downsizing \* \* \* produced a workforce with \* \* \* a potential future shortage of experienced leadership." In November 2002, the Commission on the Future of the United States Aerospace Industry (Aerospace Commission) recommended that government, industry, labor, and academia work together to develop an aerospace workforce for the 21st century.

#### IV. SUMMARY OF HEARINGS

The Space and Aeronautics Subcommittee held a hearing on July 18, 2002 on NASA's Workforce and Management Challenges. The purpose of the hearing was to examine NASA's legislative proposals to the Committee to provide new and expanded authorities for recruitment, retention, and restructuring of its workforce.

The Honorable David Walker, Comptroller General of the United States, testified on the General Accounting Office's perspective on NASA's top management challenges, focusing on its human capital challenges. He observed that modern, effective, credible, and equitable human capital strategies are key to any successful transformation effort. Mr. Walker testified that such a transformation would take five to seven years, and that while the vast majority of the transformation efforts could be done within the context of current law, he recommended that Congress grant NASA some reasonable flexibility with appropriate safeguards to prevent abuse of these authorities.

The Honorable Sean O'Keefe, NASA Administrator, testified that the President's Management Agenda identified human capital as one of the top five issues that need to be addressed. Mr. O'Keefe testified that NASA's human capital plan is fourfold: (1) to use existing authorities under Title V and the Space Act of 1958, as amended; (2) to develop an agency-wide human capital strategic plan to begin targeted hiring objectives, professional development strategies, and workforce shaping techniques that draw the best benchmarking from across federal agencies; (3) to refine NASA's mission and vision to include the inspiration of the next generation of explorers through education initiatives; and (4) to seek additional legislative authorities in managing NASA's civil service workforce.

Mr. Mark Roth, General Counsel for the American Federation of Government Employees (AFGE), testified that the human capital crisis is government-wide and that it is unwise to make necessary civil service changes on an agency-by-agency basis as NASA requested. Mr. Roth testified that the AFGE opposed most of NASA's human resource proposals, but the AFGE did support the proposed Science and Technology Scholarship Program. Mr. Roth criticized NASA for downsizing and outsourcing efforts over the past decade. He said that NASA's human capital proposals were contradictory because they provided buyouts to certain employees while offering recruitment and retention bonuses that far exceed current law to others. Mr. Roth testified that the AFGE opposed an extension of the Interagency Personnel Act and NASA's request for direct hire authority. While the AFGE generally supports bonuses, Mr. Roth testified that studies showed that fewer than 1 percent of eligible federal employees received recruitment and retention bonuses due to lack of funds. Mr. Roth testified that the AFGE did not oppose demonstration projects in general, but NASA's proposal for a demonstration project and alternative personnel system would give the Office of Personnel Management authority that rests solely with Congress.

The full Science Committee held a hearing on NASA's workforce issues on March 12, 2003 to receive expert testimony on H.R. 1085 (as introduced).

Mr. Max Stier, President and CEO of the Partnership for Public Service, testified on the fierce competition in hiring technical talent and how NASA and other federal government employers are ill-equipped to compete with the flexible hiring practices of private industry and academia for the same talent pool. Mr. Stier cited a convoluted government hiring system along with a relatively inflexible federal pay system as reasons for NASA's difficulty in attracting talent to the agency.

Mr. Bobby Harnage, National President of the American Federation of Government Employees (AFL-CIO), testified that the AFGE opposed most of the proposals contained in H.R. 1085 (as introduced) but that the AFGE agreed to work with Chairman Boehlert, the Science Committee, and NASA in drafting legislation to address NASA's workforce needs.

Mr. George Nesterchuk, a private consultant, expressed general support for H.R. 1085 (as introduced) as "an immediate remedy for retaining and attracting talented individuals" and provided specific conclusions and recommendations for each provision in the bill. Mr. Nesterchuk testified that he thought the demonstration project authority was "the most important authority extended to NASA" in the bill. Mr. Nesterchuk urged the Committee to delete the voluntary separation incentive provision from the bill because it "sends a mixed message \* \* \* in an organization arguing for relief because it is losing talent."

#### V. COMMITTEE ACTIONS

On March 5, 2003, Science Committee Chairman Sherwood Boehlert introduced H.R. 1085, NASA Flexibility Act of 2003, a bill to provide specified workforce authorities to NASA.

The Space and Aeronautics Subcommittee met on Thursday, June 26, 2003 to consider the bill.

- An amendment in the nature of a substitute was offered by Chairman Boehlert, which made technical changes and added or modified several provisions. The amendment was adopted by voice vote.

Mr. Boehlert moved that the Subcommittee favorably report the bill, H.R. 1085, as amended, to the Full Committee and that the staff be instructed to make all necessary technical and conforming changes to the bill as amended in accordance with the recommendations of the Subcommittee. With a quorum present, the motion was agreed to by a voice vote.

On July 22, 2003, the Committee on Science considered H.R. 1085, as amended by the Subcommittee.

- An en bloc amendment was offered by Chairman Boehlert that included technical and conforming changes and provisions to (1) strike the section on Voluntary Separation Incentive payments; (2) require NASA to report on any workforce management practices recommended by the Columbia Accident Investigation Board; (3) require that any NASA modifications to the Workforce Plan be sent to Congress 60 days before being implemented; (4) restrict the total period of obligated service for the Science and Technology Scholarship Program to four years; and (5) only require six years of annual reports from NASA. The amendment was adopted by a rollcall vote (Y-22; N-16).

- An amendment was offered by Ms. Jackson-Lee to require NASA to report in the Workforce Plan the safeguards and other measures that will be applied to ensure that workforce programs are carried out in a manner that does not compromise the safety or survival of any spacecraft or crew thereof. The amendment was adopted by voice vote.

- An amendment was offered by Mr. Miller to restrict certain workforce authorities from being exercised with respect to political appointees. A perfecting second degree amendment was offered by Chairman Boehlert to the amendment by Mr. Miller to modify the definition of a political appointee and was adopted by voice vote. The Miller amendment was adopted, as amended, by voice vote.

- An amendment was offered by Mr. Miller to strike the section of the bill providing NASA the authority to conduct Enhanced Demonstration Projects. The amendment was defeated by a rollcall vote (Y-20; N-20).

- An amendment was offered by Mr. Rohrabacher to limit the eligibility of science and technology scholarship recipients to junior or senior undergraduates and graduate students and to expand the eligibility to permanent residents of the United States. The amendment was adopted by voice vote.

- An amendment was offered by Mr. Hall to (1) require certain personnel ceilings and authorize appropriations for the NASA Office of Safety and Mission Assurance; (2) require NASA to study Space Shuttle crew survivability concepts; (3) issue a moratorium on all voluntary separation incentive payments until a Congressional certification on skills related to safety is made; and (4) issue a moratorium on any privatization, outsourcing, or contracting out of human space flight activities until certain conditions are met. The Chair ruled the amendment was not germane to the bill. The motion to table the appeal of the ruling of the Chair was adopted by a rollcall vote (Y-22; N-19).

- An amendment was offered by Ms. Johnson of Texas to add a new section to the bill that expressed a sense of Congress that NASA should conduct a continuing program, in accordance with current law, for the recruitment of members of minority groups for positions in NASA. The amendment was adopted by voice vote.
  - An amendment was offered by Mr. Gordon to require NASA to conduct a strategic resources review of NASA's human space flight program with the objective of determining (1) goals over the next 20 years; (2) required civil service workforce levels and shortfalls; and (3) infrastructure needed. A unanimous consent request to withdraw the amendment was adopted by voice vote.
  - An amendment was offered by Mr. Lampson to require NASA to establish a planned series of exploration goals for human space flight for the next 20 years. The amendment was defeated by a roll-call vote (Y-12; N-18).
  - An amendment was offered by Mr. Miller to require NASA to contract with the National Academy of Public Administration for an independent review of whether NASA is making full use of workforce flexibilities available to it under existing law and to prohibit the use of workforce authorities provided in the bill until this review is submitted to Congress. The amendment was defeated by a rollcall vote (Y-9; N-13).
  - An amendment was offered by Ms. Jackson-Lee to add a new section to the bill to reinstate the employees, resources, and functions in the Minority University Research and Education Program into the Equal Opportunity division. The amendment was defeated by a roll call vote (Y-12; N-18).
  - An amendment was offered by Chairman Boehlert to repeal the four-year maximum total period of obligated service for the Science and Technology Scholarship Program (which had been added by his earlier en bloc amendment). The amendment was adopted by voice vote.
  - An amendment was offered by Mr. Hall to require NASA to study Space Shuttle crew survivability concepts. The Chair ruled the amendment was not germane to the bill.
- The motion to adopt the bill, as amended, was agreed to by voice vote. Mr. Rohrabacher moved that the Committee favorably report the bill, H.R. 1085, as amended, to the House with the recommendation that the bill as amended do pass and that staff be instructed to make technical and conforming changes to the bill as amended and prepare the legislative report and that the Chairman take all necessary steps to bring the bill before the House for consideration. The motion was agreed to by a rollcall vote (Y-21; N-14).

## VI. SUMMARY OF MAJOR PROVISIONS OF THE BILL

- **Greater Flexibility in Civil Service Law to Address NASA's Critical Needs:** Authorizes NASA greater flexibility to recruit, retain, and restructure its workforce to address the agency's critical needs. Prohibits politically appointed employees in NASA from benefiting from the authorities provided in the bill.
- **Compensation for Certain Excepted Personnel:** Amends the National Aeronautics and Space Act of 1958 to tie the pay scale for NASA Excepted (NEX) employees to level III of the Executive



Schedule rather than the obsolete pay scale of grade 18 of the General Schedule.

- **Vigorous Congressional Oversight:** Before exercising any of the authorities provided under the Act, the NASA Administrator must submit to Congress and all NASA employees a detailed Workforce Plan developed in consultation with the Office of Personnel Management. Directs NASA to submit annual performance plans and specific information on the use of these workforce authorities to Congress for the next six years. After six years, NASA is to submit to Congress an evaluation of how the authorities exercised under the Act addressed NASA's critical needs.

- **Higher Bonuses:** Under current law, recruitment and relocation bonuses are authorized up to 25 percent of an employee's annual salary. This Act authorizes NASA to award recruitment, redesignation, and relocation bonuses up to 50 percent of an employee's annual salary multiplied by an agreed-upon service period (up to 4 years) if the position addresses a critical need.

- **Higher Retention Bonuses:** Under current law, retention bonuses are authorized up to 25 percent of an employee's annual salary without locality adjustments. This Act authorizes NASA to pay retention bonuses up to 50 percent of an employee's annual salary if the employee's position addresses a critical need.

- **Term Appointments:** Authorizes NASA to make term appointments for up to six years. Current law limits term appointments to a four-year term. Allows term appointments to be converted to career-conditional civil service appointments under strict conditions.

- **Pay Authority for Critical Positions:** Authorizes the NASA Administrator to fix the rate of pay up to the level of the Vice-President's pay (\$198,600 per year) for up to ten employees. Such employees must have expertise of an extremely high level in scientific, technical, professional, or administrative fields.

- **Assignments under the Intergovernmental Personnel Act (IPA):** Authorizes NASA to grant extensions of four years to personnel serving in IPA assignments. Currently, only two-year extensions are allowed after an initial two-year assignment. Thus, an IPA assignment may last a total of six years under the new authority versus only four years under current law.

- **Enhanced Demonstration Project:** Authorizes NASA to conduct a personnel demonstration project for up to 8,000 employees rather than for up to 5,000 employees as in current law. NASA employs approximately 18,000 civil servants.

- **Science & Technology Scholarships:** Authorizes NASA to set-up a "scholarship for service" program under which NASA would pay for junior-senior undergraduate and graduate school education. In exchange, the student would be obligated to work for NASA after graduation. Authorizes \$10 million per year.

- **Distinguished Scholars:** Authorizes NASA to directly hire recent graduates from undergraduate or graduate school with high grade point averages. Veteran's preferences still apply.

- **Travel and Transportation Expenses for New Appointees:** Authorizes NASA to compensate newly hired employees for certain travel and transportation expenses that current employees are already eligible to receive.

- Annual leave enhancements: Authorizes new appointees to NASA who have no prior Federal service to accrue leave at the rate normally allowed for a Federal employee of similar experience.
- Limited Senior Executive Service (SES) Appointments: Authorizes NASA to temporarily fill career reserved SES positions due to death, illness, training, or special-tasking of the employee previously holding that position.
- Qualifications Pay: Authorizes NASA to adjust the pay to any step within an employee's grade in the General Schedule (GS) for employees with superior qualifications and additional duties.

## VII. SECTION-BY-SECTION ANALYSIS (BY TITLE AND SECTION)

### SECTION 1. SHORT TITLE

“The NASA Flexibility Act of 2003.”

### SECTION 2. COMPENSATION FOR CERTAIN EXCEPTED PERSONNEL

Amends section 203(c) of the National Aeronautics and Space Act of 1958 to tie the pay scale for NASA Excepted (NEX) Employees to level III of the Executive Schedule rather than the obsolete pay scale of grade 18 of the General Schedule. Directs that this amendment takes effect on the first day of the first pay period beginning on or after the date of enactment of this Act.

### SECTION 3. WORKFORCE AUTHORITIES

Amends title 5, United States Code, on Government Organizations and Employees by inserting a new chapter 98 for the National Aeronautics and Space Administration with the following sections:

- Sec. 9801. Definitions.
- Sec. 9802. Planning, notification, and reporting requirements.
- Sec. 9803. Restrictions.
- Sec. 9804. Recruitment, redesignation, and relocation bonuses.
- Sec. 9805. Retention bonuses.
- Sec. 9806. Term appointments.
- Sec. 9807. Pay authority for critical positions.
- Sec. 9808. Assignments of intergovernmental personnel.
- Sec. 9809. Enhanced demonstration project authority.
- Sec. 9810. Science and technology scholarship program.
- Sec. 9811. Distinguished scholar appointment authority.
- Sec. 9812. Travel and transportation expenses of certain new appointees.
- Sec. 9813. Annual leave enhancements.
- Sec. 9814. Limited appointments to Senior Executive Service positions.
- Sec. 9815. Qualifications pay.
- Sec. 9816. Reporting requirement.

### SECTION 9801. DEFINITIONS

Defines terms used throughout the bill. Defines the term “critical need” as a specific and important requirement of NASA's mission that the agency is unable to fulfill because NASA lacks the appropriate employees either because of the inability to fill positions or because employees lack the requisite skills. Defines the term “re-

designation bonus” as a bonus which could be paid to an employee moving from one government job to another, including within NASA, without relocating to a different geographic region.

SECTION 9802. PLANNING, NOTIFICATION, AND REPORTING  
REQUIREMENTS

Requires the NASA Administrator to submit a Workforce Plan to Congress not later than 90 days before exercising any of the authorities under this chapter. The Workforce Plan shall be developed in consultation with the Office of Personnel Management. Requires that this Workforce Plan describe: (1) each of NASA’s critical needs and the criteria used in its identification; (2) the functions, approximate number, and classes or other categories of positions or employees that address critical needs and that would be eligible for each workforce authority provided in this chapter and proposed to be exercised, and how the exercise of those authorities with respect to the eligible positions or employees involved would address each critical need identified; (3) any critical need which would not be addressed by the workforce authorities provided in this chapter and 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 in sections 9804, 9805 (including the criteria for granting bonuses in the absence of a critical need), and 9810, 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 NASA employees will be afforded the notification required for the Workforce Plan or any modifications thereof; (7) the methods that will be used to determine if the workforce authorities provided in this chapter have successfully addressed each critical need identified; (8) NASA’s recruitment methods and plans to improve recruitment of highly qualified individuals; (9) any reforms to NASA’s workforce management practices recommended by 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; and (10) the safeguards and other measures that will be applied to ensure that this chapter is carried out in a manner that does not compromise the safety or survival of any spacecraft or crew thereof. Requires that NASA provide the Workforce Plan to all employees 60 days before exercising any of the workforce authorities provided in this chapter. Authorizes the NASA Administrator to modify the Workforce Plan, provided that not later than 60 days before implementing any such modifications the Administrator submit a description of proposed modifications to Congress and submit such description not later than 60 days beforehand to all employees. Requires the NASA Administrator to provide each employee representative representing any employee who might be affected with a copy of the proposed plan (or modification), to give each representative 30 calendar days to review and make recommendations to the proposed plan (or modification) to NASA, and for NASA to give such recommendations full and fair consideration in deciding how to proceed with the proposed plan. Requires that none of the workforce authorities provided in this chapter be exercised in a manner inconsistent with the Workforce

Plan. Directs NASA to submit the annual performance plan that it submits to OMB under current law to the Congress. Requires the NASA Administrator to submit to Congress an evaluation and analysis of the actions taken under this chapter not later than six years after its enactment. Requires that this evaluation and analysis include: (1) an evaluation of whether the authorities exercised under this chapter successfully addressed each critical need identified; (2) to the extent that they did not, an explanation of the reasons why any critical need 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. Requires that NASA's annual budget request include a statement of the total amount of appropriations requested for the fiscal year to carry out this chapter.

#### SECTION 9803. RESTRICTIONS

Prohibits Senate-confirmed Presidential and political appointees at NASA from being eligible to benefit from the authorities under this chapter. Requires that the total amount for all salaries, bonuses, and other benefits that an employee might receive under the workforce authorities provided in this chapter be limited according to current law.

#### SECTION 9804. RECRUITMENT, REDESIGNATION, AND RELOCATION BONUSSES

Authorizes the NASA Administrator to pay recruitment, redesignation, and relocation bonuses to an individual in accordance with the authority provided in this section and consistent with the Workforce Plan if the individual is: (1) newly appointed as an employee of the Federal Government; (2) currently employed by the Federal Government and is newly appointed to another position in the same geographic area; or (3) currently employed by the Federal Government and must relocate to a different geographic area to accept a position with the Administration.

Authorizes recruitment, redesignation, and relocation bonuses under the following formula: (1) If the position addresses a critical need, the amount of a bonus may not exceed 50 percent of an employee's annual salary (including comparability payments) multiplied by an agreed-upon service period; (2) If the position does not address a critical need, the amount of a bonus may not exceed 25 percent of an employee's annual salary (including comparability payments) multiplied by an agreed-upon service period; and (3) In either case, the total bonus may not exceed the employee's annual salary (including comparability payments) at the beginning of the employee's period of service.

Requires that payment of a bonus be contingent on the employee entering into a service agreement with NASA. Requires that the service agreement, at a minimum, establish: (1) the required service period; (2) the payment schedule and method of payment which may include a lump-sum payment, installment payments, or a combination thereof; (3) the amount of the bonus and the basis for calculating such amount; and (4) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed, and the effect of the termination. Requires that an employee's service period not be less than six

months and not exceed four years. Requires NASA to establish a plan for paying such bonuses, subject to OPM approval, before paying a bonus under this section. Restricts supervisors and management officials from receiving more than 25 percent of the total amount in bonuses awarded in any year.

#### SECTION 9805. RETENTION BONUSES

Authorizes the NASA Administrator to pay higher retention bonuses than is provided under current law and in accordance with the authority provided in this section and consistent with the Workforce Plan if the Administrator determines that the unusually high or unique qualifications of an employee or a special need of NASA makes it essential to retain the employee and the employee would be likely to leave in the absence of a retention bonus. Authorizes retention bonuses under the following formula: (1) If the position addresses a critical need, the amount of a bonus may not exceed 50 percent of an employee's annual salary (including comparability payments); or (2) If the position does not address a critical need, the amount of a bonus may not exceed 25 percent of an employee's annual salary (including comparability payments). Requires that payment of a bonus be contingent on the employee entering into a service agreement with NASA unless NASA pays a retention bonus in biweekly installments to the employee. Requires that the service agreement, at a minimum, establish: (1) the required service period; (2) the payment schedule and method of payment which may include a lump-sum payment, installment payments, or a combination thereof; (3) the amount of the bonus and the basis for calculating such amount; and (4) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed, and the effect of the termination. Requires that the service period may not be less than six months and may not exceed four years. Prohibits an employee from receiving a retention bonus under this section during a service period for which other bonuses were previously provided to the employee. Requires NASA to establish a plan for paying retention bonuses, subject to OPM approval, before paying a retention bonus under this section. Restricts supervisors and management officials from receiving more than 25 percent of the total amount in bonuses awarded in any year.

#### SECTION 9806. TERM APPOINTMENTS

Authorizes the NASA Administrator to make term appointments within NASA for not less than one year and not more than six years. Authorizes the NASA Administrator to convert a term appointment to a permanent appointment in the competitive service within NASA without further competition if: (1) the individual was hired under the open, competitive examining procedures under current law; (2) the original announcement stated the appointment may be converted from term to career-conditional or career appointment; (3) the individual has completed at least two years of the term appointment; (4) the employee's performance was at least fully successful or equivalent; and (5) the position is in the same occupational series and geographic location and provides no greater promotion potential than the term appointment. Authorizes the NASA Administrator to convert a term appointment to a perma-

ment appointment in the competitive service within NASA through internal competitive procedures if conditions (1) through (4) above are met. Directs that an employee converted under this section becomes a career-conditional employee unless the employee has otherwise completed the service requirements for career tenure. Directs that an employee converted to career or career-conditional employment under this section acquires competitive status upon conversion.

#### SECTION 9807. PAY AUTHORITY FOR CRITICAL POSITIONS

Authorizes the NASA Administrator to fix the salary for up to 10 administrative, technical and professional positions described in the section to the salary level of the Vice-President if the position addresses a critical need identified in the Workforce Plan and the position requires expertise of an extremely high level in scientific, technical, professional, or administrative fields. Directs that the NASA Administrator may not delegate this authority. Requires that an employee receiving pay at a rate fixed under this section not be paid an allowance, differential, bonus, award, or similar cash payment during any calendar year that would cause the employee's salary total to exceed the annual rate of salary prescribed for the Vice-President.

#### SECTION 9808. ASSIGNMENTS UNDER THE INTERGOVERNMENTAL PERSONNEL ACT

Authorizes the NASA Administrator to extend the period of an employee's Intergovernmental Personnel Act (IPA) assignment up to four years, rather than two years provided under current law.

#### SECTION 9809. ENHANCED DEMONSTRATION PROJECT

Authorizes NASA when conducting a demonstration project to apply that project to up to 8,000 individuals rather than 5,000 individuals as specified under current law.

#### SECTION 9810. SCIENCE AND TECHNOLOGY SCHOLARSHIP PROGRAM

Authorizes the NASA Administrator to establish a NASA Science and Technology Scholarship Program to award scholarships to individuals who agree to serve as full-time NASA employees in exchange for receiving this scholarship. Requires that individuals be selected for this scholarship through a competitive application process primarily on the basis of academic merit, with consideration given to financial need and the goal of promoting the participation of individuals under the Science and Engineering Equal Opportunities Act. Requires that individuals eligible for this scholarship must be full-time junior or senior undergraduate or graduate students, U.S. citizens or permanent residents, and not be federal employees. Directs NASA to advertise and update periodically a list of academic programs and fields of study for which scholarships may be used. Prohibits an individual from receiving this scholarship for more than four academic years, unless the NASA Administrator grants a waiver. Requires that the scholarship pay for tuition, fees, and other authorized expenses established by the NASA Administrator by regulation. Directs that scholarships not exceed the cost of attendance. Authorizes the NASA Administrator to enter into

contractual agreement with an institution of higher education to provide payment for this scholarship. Requires two years of service for each year of scholarship. Requires that obligated service begin not later than 60 days after the individual receives the educational degree for which the scholarship was provided unless the NASA Administrator allows the individual to defer the obligated service under prescribed terms and conditions. Requires that students who fail to maintain a high level of academic standing as defined in NASA regulation, who are dismissed from their college or university for disciplinary reasons, or who do not complete their program of study be required to repay NASA for funds received under the scholarship program. Directs that in the event a scholarship recipient fails to complete the service obligation to NASA, the individual be responsible to repay three times the amount of scholarship received plus interest on that amount at a determined, prevailing loan-rate. Authorizes the NASA Administrator to waive a service obligation for an individual who received a scholarship when completion of service would be impossible or would involve extreme hardship to the individual or if enforcement would be contrary to the best interests of the government. Authorizes appropriation of \$10,000,000 for each fiscal year for the NASA Science and Technology Scholarship Program established under this section.

#### SECTION 9811. DISTINGUISHED SCHOLAR APPOINTMENT AUTHORITY

Authorizes NASA to appoint candidates directly to General Schedule professional, competitive service positions in grades GS-7 through GS-12 who meet specified education and grade point average requirements and for which public notice for the position has been given in accordance with OPM regulations. Requires that the candidates receive their degree within two years before the effective date of the appointment. Requires that in selecting these individuals for this appointment, NASA shall consider preference eligibles who meet the criteria for distinguished scholar appointment ahead of non-preference eligibles. Directs that an appointment made under this authority shall be a career-conditional appointment in the competitive civil service.

#### SECTION 9812. TRAVEL AND TRANSPORTATION EXPENSES OF CERTAIN NEW APPOINTEES

Authorizes the NASA Administrator to pay the travel, transportation, and relocation expenses for a new appointee to NASA to the same extent, in the same manner, and subject to the same conditions as payment of such expenses to an employee transferred in the interests of the United States Government.

#### SECTION 9813. ANNUAL LEAVE ENHANCEMENTS

Authorizes the NASA Administrator to 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 a NASA employee for the purposes of establishing leave the accrual rate for the employee. Requires that this authority continues to apply only as long as the individual works for NASA. Authorizes the annual leave accrual rate for NASA employees serving in senior level or senior executive pay positions or in an equivalent category whose rate of

basic pay is greater than GS-15, step 10 to be 1 day for each full biweekly period as long as the employee works for NASA.

SECTION 9814. LIMITED APPOINTMENTS TO SENIOR EXECUTIVE SERVICE POSITIONS

Authorizes the NASA Administrator to fill career reserved SES positions on a temporary basis when a vacancy in such a position occurs as a result of separation of the incumbent, temporary absence of the incumbent due to illness, training, or reassignment, or if such a position would be difficult to fill in any other manner because the position is likely to be eliminated within the next two years. Restricts such appointments from exceeding two years, but allows the Administrator to extend such an appointment up to an additional year provided the reason for the original appointment was not that the position was likely to be eliminated within two years. Restricts the number of such appointments from exceeding 10 percent of the total number of SES positions within NASA at any time. Authorizes an individual appointed to such a career reserved position on a temporary basis to be reemployed to the position (or an equivalent position) from which the individual was so appointed in accordance with OPM regulations. Requires OPM approval if the individual appointed to such a career reserved position under this section is to be appointed (1) from outside the Federal Government; or (2) from a civil service position that is not a career or career-conditional appointment; or (3) or is a senior executive, but not a career appointee. Authorizes an individual appointed under this authority to be treated as a career appointee for purposes of performance awards.

SECTION 9815. QUALIFICATIONS PAY

Authorizes the NASA Administrator to set the pay for a General Schedule (GS) employee at any step within the pay range under the General Schedule if the employee possesses unusually high or unique qualifications and the employee is assigned new duties or to a new position. Authorizes that if an employee serves at least one year in the position under the GS step determined by the authority under this section, then succeeding actions to set pay under current law for the employee may take the pay determination under this section into account. Requires the NASA Administrator to submit a plan to OPM and the Congress that describes the implementation and process for evaluating the effectiveness of this authority before exercising this authority.

SECTION 9816. REPORTING REQUIREMENT

Requires the NASA Administrator to submit an annual report to the Congress not later than February 28 for each of the next six years after enactment of this chapter to provide specific information listed in this section about the use of the workforce authorities provided in this chapter for the preceding fiscal year.

SECTION 3. CLERICAL AMENDMENT

Amends the table of chapters in title 5, United States Code by adding chapter 98 for NASA.



## SECTION 4. WORKFORCE DIVERSITY

Expresses the sense of Congress that NASA should conduct a continuing program, in accordance with current law, for the recruitment of members of minority groups for positions in NASA that carries out the policy set forth in current law in a manner designed to eliminate under-representation of minorities in the various categories of civil service employment.

## VIII. COMMITTEE VIEWS

*Committee changes to NASA's initial legislative proposals*

In May 2002 and February 2003, NASA made several legislative proposals to the Committee for changes to civil service law designed to improve NASA's ability to recruit and retain highly skilled scientists, engineers, and program managers. The Committee made several changes to NASA's initial proposals before including them in the bill and rejected some altogether.

Certain legislative proposals from NASA were included as Government-wide authorities in Title XIII of the Homeland Security Act of 2002 (P.L. 107-296) that was signed into law in November 2002. Similar authorities for Streamlined Hiring, Voluntary Separation Incentives, and Voluntary Early Retirement were included in the Homeland Security Act, and NASA told the Committee that the Homeland Security Act satisfied its request for Congress to act on these legislative proposals.

The Committee did not include NASA's proposed industry exchange program because the Committee believes the program would create significant, potential conflicts of interest. The Committee was particularly wary of the proposal because the Columbia Accident Investigation Board has raised concerns that NASA employees and contractors have become too indistinguishable.

Also, the Committee did not include NASA's legislative proposal for a streamlined demonstration project and alternative personnel system authorities for the entire agency because NASA's initial proposals did not allow for sufficient outside review of the project or Congressional oversight before the demonstration became permanent. The Committee's provision for an enhanced demonstration project simply increases the number of employees who may be included in the demonstration project from 5,000 to 8,000 individuals.

To ensure consistency of terms with specified conditions in current law, the bill defines the conditions for a redesignation bonus as a new term. NASA's original legislative proposal would have changed the conditions for recruitment bonuses from what is defined in current law for all Federal agencies.

The service obligation in the bill's Science and Technology Scholarship Program differs from NASA's original legislative proposal by making the obligation two years for every academic year that a scholarship is awarded. NASA's original legislative proposal would have only obligated the scholarship recipient to one year of service for every academic year that a scholarship is awarded. The Committee believes that these scholarships could be generous for scholarship recipients, and NASA can recoup its investment with a longer service obligation that would also aid NASA in retaining these scholarship recipients as employees.

The Distinguished Scholar Appointment Authority in the bill differs from NASA's original legislative proposal by requiring that the students appointed directly to certain positions in NASA receive the specified degree within two years of the effective date of the appointment. NASA's original legislative proposal did not specify a timeframe for the receipt of a degree, though NASA's intent was to use this authority to directly appoint recent college graduates. The bill also makes clear that such positions must be advertised in accordance with standard procedures.

The Limited Appointments to Senior Executive Service Positions authority in the bill differs from NASA's original legislative proposal by limiting the term of the appointment up to three years maximum and specifying the conditions for such appointments. NASA's original legislative proposal would have allowed such appointments up to seven years and made only general conditions for such appointments.

In addition, wording changes were made to virtually every provision to focus its purpose and clarify its relation to current law. Also, significant reporting requirements were added.

#### *NASA reports to Congress*

The Committee believes that for NASA to fulfill the specific and important requirements of its mission that it must be able to fill positions and have employees who possess the requisite skills. The Committee expects NASA to describe in detail in the Workforce Plan each critical need of the agency as well as the approximate number of positions and employees that address those critical needs.

The bill directs NASA management to fully consult with its employees, employee representatives, and the Committee when formulating its Workforce Plan and plans for an enhanced demonstration project. NASA has not yet explained its plans for the enhanced demonstration project, so it is especially critical that NASA consult with employees, employee representatives, and the Congress well in advance of any planned implementation. The Committee expects NASA to provide the widest dissemination to employees and employee representatives of the draft Workforce Plan and plans for an enhanced demonstration project and means for them to provide feedback. At a minimum, the Committee expects NASA to provide both plans via a readily-accessible Internet website along with the means to provide written feedback to the draft plans, to advertise to employees the means to provide feedback on the draft plans, and to conduct seminars at NASA centers with employees and employee representatives and receive verbal feedback on both plans. The Committee expects NASA to give such recommendations full and fair consideration before submitting its Workforce Plan and demonstration project plan to Congress.

The Committee expects that the report due not later than six years after the date of enactment of this bill will be a comprehensive evaluation and analysis of whether the workforce authorities provided in the bill have been effective in the recruitment, retention, and restructuring of NASA's workforce. The Committee expects NASA to establish specific goals in the Workforce Plan so that the agency can later evaluate its performance in achieving those goals in this report. The six year timeframe for this evalua-

tion is based on testimony from the Honorable David Walker and the Honorable Sean O’Keefe during the July 18, 2002 Space and Aeronautics hearing on NASA Workforce and Management Challenges where both witnesses agreed that after five to six years the agency should have enough information to judge the effects of additional workforce flexibilities.

The Committee is concerned that NASA may not budget for the bonuses, salaries, and other expenses provided in the workforce authorities of the bill. The Committee believes that payment of additional salaries, bonuses, incentives, and other expenses provided by the authorities in this bill should not detract from the budgets for other Personnel and Related Costs accounts. The bill requires NASA to include a statement of the total amount of appropriations requested for each fiscal year to carry out the workforce authorities.

The Committee directs NASA to conduct a strategic resources review of its human space flight programs. The objective of the review is to determine the workforce and infrastructure requirements to support NASA’s human space flight goals over the next twenty years. In carrying out the review, NASA should state the specific human space flight goals that the agency will pursue over the next 20 years. Given those goals, NASA’s review should determine the civil service workforce levels, on an annual basis and by Center, necessary to support those goals. Any workforce shortfalls should be identified. In addition, the review should identify, by Center, the infrastructure needed to support the twenty-year human space flight goals enumerated by the agency. The infrastructure review should also identify any existing infrastructure that will need to be upgraded or modified. NASA should provide a report containing the results of the strategic resources review to the House Science Committee and the Senate Commerce, Science and Transportation Committee within one year of the enactment of this Act.

#### *Bonuses and incentives*

The bill provides several additional authorities for NASA to offer bonuses and incentives to NASA employees to better recruit, retain, and restructure its workforce.

The Committee used the same conditions for paying recruitment, relocation, and retention bonuses in the bill as in current law. The bill defines a redesignation bonus as a new situation for awarding a bonus. A redesignation bonus may be awarded to an individual if the Administrator determines that NASA would be likely, in the absence of a bonus, to encounter difficulty in filling a position and if the individual is currently employed by the Federal Government and is newly appointed to another position in the same geographic area. The Committee intends for the NASA Administrator to set strict criteria in determining whether a position is difficult to fill so that this redesignation bonus authority is not used to simply pay bonuses to employees who change positions.

The Committee believes that the bonus authorities provided in sections 9804 and 9805 should primarily benefit NASA’s science and engineering workforce and not supervisors and management officials. For this reason, the bill limits the total amount in bonuses that may be awarded in any year to supervisors or management of-

officials to no more than 25 percent. The Committee plans to monitor these bonus amounts closely in NASA's annual reports.

*NASA appointment authorities*

The bill provides several additional authorities for NASA to make appointments to positions within NASA in order to better recruit workers to NASA positions.

The Committee regards the authority for Compensation for Certain Excepted Personnel provided in section 2 separately from the other workforce authorities in the bill, because this authority simply amends the National Aeronautics and Space Act of 1958 to update an obsolete grade 18 of the General Schedule with level III of the Executive Schedule.

IX. COST ESTIMATE

A cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted to the Committee on Science prior to the filing of this report and is included in Section X of this report pursuant to House Rule XIII, clause 3(c)(3).

H.R. 1085 does not contain new budget authority, credit authority, or changes in revenues or tax expenditures. Assuming that the sums authorized under the bill are appropriated, H.R. 1085 does authorize additional discretionary spending, as described in the Congressional Budget Office report on the bill, which is contained in Section X of this report.

X. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, July 24, 2003.*

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

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1085, the NASA Flexibility Act of 2003.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Kathleen Gramp.

Sincerely,

DOUGLAS HOLTZ-EAKIN,  
*Director.*

Enclosure.

*H.R. 1085—NASA Flexibility Act of 2003*

Summary: H.R. 1085 would allow the National Aeronautics and Space Administration (NASA) to modify its personnel and workforce practices. Under the bill, NASA would be allowed to pay higher bonuses to attract and retain individuals with special expertise, as well as to increase compensation or benefits for certain positions. In addition, the bill would authorize the appropriation of \$10 million a year for a new science and technology scholarship program.

Assuming appropriation of the necessary amounts, CBO estimates that implementing H.R. 1085 would cost \$70 million over the 2004–2008 period. (In 2003, about \$2 billion was appropriated for NASA’s personnel costs.) Enacting H.R. 1085 would not affect direct spending or revenues.

H.R. 1085 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 1085 is shown in the following table. The costs of this legislation fall within budget functions 250 (general science, space, and technology) and 400 (transportation).

	By fiscal year, in millions of dollars—				
	2004	2005	2006	2007	2008
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Estimated Authorization Level .....	14	15	17	19	19
Estimated Outlays .....	5	11	16	19	19

Basis of estimate: For this estimate, CBO assumes that H.R. 1085 will be enacted by the end of fiscal year 2003. We assume that the necessary amounts will be appropriated for each year and that outlays will occur at historical rates for NASA’s personnel costs.

This bill would authorize the appropriation of \$10 million a year for a science and technology scholarship program. Recipients would be required to work for NASA for a minimum of two—but no more than four—years.

Based on information from NASA, CBO estimates that expenditures for the new personnel benefits authorized by the bill would cost \$4 million to \$7 million a year (in 2003 dollars) in most or all of the next five years, depending on how extensively the agency used some of the new authorities. CBO estimates that spending for higher bonuses would account for most of the additional cost. According to NASA, over 5,000 of its roughly 18,000 employees will be eligible to retire by 2008, half of whom are in scientific and engineering fields.

Under H.R. 1085, new employees could receive bonuses equivalent to 100 percent of their salary under certain conditions (compared to 25 percent under current law), while current employees with critical skills could be given a one-time bonus equivalent to 50 percent of their salary (compared to 25 percent under current law). Based on information from NASA on how it expects to use the new authority, CBO estimates such bonuses would cost a total of about \$25 million over the next five years, assuming that such payments would likely increase over time in response to recruitment needs and payment schedules. The estimated cost is equivalent to giving the maximum bonus to an average of 90 individuals a year over the 2004–2008 period, or smaller bonuses to a larger number of people.

Intergovernmental and private-sector impact: H.R. 1085 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Previous CBO estimates: CBO previously prepared cost estimates for two bills that were similar to H.R. 1085. All three bills contain similar provisions, but the estimated cost of H.R. 1085 is lower than for the other two because it would not authorize a personnel exchange program with industrial firms. The two other cost estimates were for H.R. 1836, the Civil Service and National Security Personnel Improvement Act, as ordered reported by the House Committee on Government Reform on May 8, 2003 (the cost estimate was transmitted on May 15, 2003); and for S. 610, a bill 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, as ordered reported by the Senate Committee on Governmental Affairs on June 17, 2003 (the cost estimate was transmitted on June 25, 2003).

Estimate prepared by: Federal Costs: Kathleen Gramp; Impact on State, Local, and Tribal Governments: Leo Lex; and Impact on the Private Sector: Paige Piper/Bach.

Estimate approved by: Robert A. Sunshine, Assistant Director for Budget Analysis.

#### XI. COMPLIANCE WITH PUBLIC LAW 104-4 (UNFUNDED MANDATES)

H.R. 1085 contains no unfunded mandates.

#### XII. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

The Committee on Science's oversight findings and recommendations are reflected in the body of this report.

#### XIII. STATEMENT ON GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause (3)(c) of House rule XIII, the goals of H.R. 1085 are to authorize specified workforce authorities to NASA for improved recruitment and retention; to require that NASA provide certain notification, planning, and reporting to Congress, NASA employees, and NASA employee representatives about the use of these workforce authorities; and to establish a science and technology scholarship program.

#### XIV. CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact H.R. 1085.

#### XV. FEDERAL ADVISORY COMMITTEE STATEMENT

H.R. 1085 does not establish nor authorize the establishment of any advisory committee.

#### XVI. CONGRESSIONAL ACCOUNTABILITY ACT

The Committee finds that H.R. 1085 does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (Public Law 104-1).

XVII. STATEMENT ON PREEMPTION OF STATE, LOCAL, OR TRIBAL LAW

This bill is not intended to preempt any state, local, or tribal law.

XVIII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SECTION 203 OF THE NATIONAL AERONAUTICS AND SPACE ACT OF 1958

FUNCTIONS OF THE ADMINISTRATION

SEC. 203. (a) \* \* \*

\* \* \* \* \*

(c) In the performance of its functions the Administration is authorized—

(1) \* \* \*

(2) to appoint and fix the compensation of such officers and employees as may be necessary to carry out such functions. Such officers and employees shall be appointed in accordance with the civil-service laws and their compensation fixed in accordance with the Classification Act of 1949, except that (A) to the extent the Administrator deems such action necessary to the discharge of his responsibilities, he may appoint not more than four hundred and twenty-five of the scientific, engineering, and administrative personnel of the Administration without regard to such laws, and may fix the compensation of such personnel not in excess of [the highest rate of grade 18 of the General Schedule of the Classification Act of 1949, as amended,] the rate of basic pay payable for level III of the Executive Schedule, and (B) to the extent the Administrator deems such action necessary to recruit specially qualified scientific and engineering talent, he may establish the entrance grade for scientific and engineering personnel without previous service in the Federal Government at a level up to two grades higher than the grade provided for such personnel under the General Schedule established by the Classification Act of 1949, and fix their compensation accordingly;

\* \* \* \* \*

TITLE 5, UNITED STATES CODE

\* \* \* \* \*

PART III—EMPLOYEES

\* \* \* \* \*

**Subpart I—Miscellaneous**

95.	Personnel flexibilities relating to the Internal Revenue Service .....	9501
	* * * * *	
98.	<i>National Aeronautics and Space Administration</i> .....	9801
	* * * * *	

**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. Enhanced demonstration project authority.
- 9810. Science and technology scholarship program.
- 9811. Distinguished scholar appointment authority.
- 9812. Travel and transportation expenses of certain new appointees.
- 9813. Annual leave enhancements.
- 9814. Limited appointments to Senior Executive Service positions.
- 9815. Qualifications pay.
- 9816. 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 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 developed in consultation with 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;*

(9) *any reforms to the Administration's workforce management practices recommended by 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; and*

(10) *the safeguards and other measures that will be applied to ensure that this chapter is carried out in a manner that does not compromise the safety or survival of any spacecraft or crew thereof.*

(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 ad-*

*ditional information which the Administrator considers appropriate.*

*(d)(1)(A) The Administrator may from time to time modify the workforce plan. Not later than 60 days before implementing any such modifications, the Administrator shall submit a description of the proposed modifications to the appropriate committees of Congress.*

*(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 appropriate committees of Congress, 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, 9810, 9813, 9814, 9815, or 9816 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—*

(1) *25 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.*

*(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 (including 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. Enhanced demonstration project authority**

When conducting a demonstration project at the Administration, section 4703(d)(1)(A) may be applied by substituting "8,000" for "5,000".

**§9810. 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, as a junior or senior undergraduate or graduate student, 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.*

*(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.

#### **§9811. 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.*

**§9812. 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;*

(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.*

**§9813. Annual leave enhancements**

(a)(1) *In this section—*

(A) *the term “newly appointed employee” means an individual who is first appointed—*

(i) *as an employee of the Federal Government; or*

(ii) *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;*

(B) *the term “period of qualified non-Federal service” means any period of service performed by an individual that—*

(i) *was performed in a position the duties of which were directly related to the duties of the position in the Adminis-*

tration which that individual will fill as a newly appointed employee; and

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

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

(2)(A) 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.

(B) A decision under paragraph (A) 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.

(3)(A) 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.

(B) 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.

**§9814. Limited appointments to Senior Executive Service positions**

(a) In this section, the terms “career reserved position”, “Senior Executive Service position”, “senior executive” and “career appointee” have the meanings set forth in section 3132(a).

(b) Subject to succeeding provisions of this section, the Administrator may, notwithstanding any other provision of this title, fill a career reserved position on a temporary basis, but only if—

(1) such position is vacant as a result of—

(A) the separation of the incumbent; or

(B) the temporary absence of the incumbent due to illness, training, or reassignment; or

(2) such position is or would be difficult to fill in any other manner due to the fact that such position is likely to be eliminated within the next 2 years.

(c) Notwithstanding sections 3132 and 3394(b), an appointment made by the Administrator under subsection (b) shall not exceed 2 years.

(d) The Administrator may extend an appointment under subsection (b) for as long as necessary to meet a contingency described in subsection (b)(1), but for not to exceed 1 year and not if the circumstance described in subsection (b)(2) pertains.

(e) The number of career reserved positions filled under subsection (b) may not at any time exceed 10 percent of the total number of Senior Executive Service positions then authorized for the Administration under section 3133.

(f) An individual appointed to a career reserved position on a temporary basis under subsection (b) shall, if such individual was so appointed from a civil service position held under a career or career-conditional appointment, be entitled, upon completion of that temporary appointment, to be reemployed in the position from which

*such individual was so appointed (or an equivalent position), in accordance with such regulations as the Office of Personnel Management may prescribe.*

*(g) An appointment to a career reserved position on a temporary basis under subsection (b) may not be made without the prior approval of the Office of Personnel Management if the individual—*

*(1) is to be appointed—*

*(A) from outside the Federal Government; or*

*(B) from a civil service position held under an appointment other than a career or career-conditional appointment; or*

*(2) is a senior executive, but not a career appointee.*

*(h) An individual appointed to a career reserved position on a temporary basis under subsection (b) who is not a career appointee shall, for purposes of performance awards under section 5384, be treated as a career appointee.*

#### **§9815. 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.*

#### **§9816. 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)–(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 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)–(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 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 9810 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 9811 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 9812 during the preceding fiscal year for travel and transportation expenses.*

*(8) The total number of employees who were awarded enhanced annual leave under section 9813 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 9813).*

*(9) The total number of appointments made under section 9814 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 9815 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).*

## XIX. COMMITTEE RECOMMENDATIONS

On July 22, 2003, a quorum being present, the Committee on Science favorably reported H.R. 1085, NASA Flexibility Act of 2003, by a rollcall vote of Yeas—21; Nays—14, and recommended its enactment.

COMMITTEE ON SCIENCE - ROLL CALL - 108<sup>th</sup> CONGRESS  
 DATE: 7/22/03 SUBJECT: Motion to report the bill, as amended

Rm.	Phone	Member	Yes	No	Not Voting	Present	Absent
2246	53665	Mr. Boehlert, R-NY	✓				
2231	54236	Mr. Lamar Smith, R-TX	✓				
2466	52011	Mr. Weldon, R-PA	✓				
2338	52415	Mr. Rohrabacher, R-CA	✓				
2109	52002	Mr. Barton, R-TX	✓				
2201	51986	Mr. Calvert, R-CA	✓				
2305	56276	Mr. Nick Smith, R-MI	✓				
2412	52721	Mr. Bartlett, R-MD	✓				
1714	53831	Mr. Ehlers, R-MI	✓				
425	52472	Mr. Gutknecht, R-MN	✓				
2443	52006	Mr. Nethercutt, R-WA	✓				
2342	55565	Mr. Lucas, R-OK	✓				
1213	53515	Mrs. Biggert, R-IL	✓				
2245	55311	Mr. Gilchrest, R-MD	✓				
117	52561	Mr. Akin, R-MO	✓				
1229	52371	Mr. Johnson, R-IL	✓				
1508	52565	Ms. Hart, R-PA					
114	52211	Mr. Sullivan, R-OK					
307	56365	Mr. Forbes, R-VA	✓				
1118	52931	Mr. Gingrey, R-GA	✓				
124	50453	Mr. Bishop, R-UT	✓				
1721	57772	Mr. Burgess, R-TX	✓				
315	54931	Mr. Bonner, R-AL	✓				
323	52706	Mr. Feeney, R-FL	✓				
1026	54005	Mr. Neugebauer, R-TX	✓				
2405	56673	Mr. Hall, D-TX		✓			
2304	54231	Mr. Gordon, D-TN		✓			
2454	55661	Mr. Costello, D-IL		✓			
1511	58885	Ms. Johnson, D-TX		✓			
2263	55161	Ms. Woolsey, D-CA		✓			
405	56565	Mr. Lampson, D-TX		✓			
1005	52265	Mr. Larson, D-CT		✓			
115	52161	Mr. Udall, D-CO		✓			
1023	50855	Mr. Wu, D-OR		✓			
1713	52631	Mr. Honda, D-CA		✓			
216	57508	Mr. Bell, D-TX		✓			
1505	53032	Mr. Miller, D-NC		✓			
504	56831	Mr. Davis, D-TN		✓			
2435	53816	Ms. Jackson-Lee, D-TX	✓				
102	53072	Ms. Lofgren, D-CA	✓				
1030	55911	Mr. Sherman, D-CA					
1421	53536	Mr. Baird, D-WA		✓			
431	52865	Mr. Moore, D-KS		✓			
1122	56616	Mr. Weiner, D-NY		✓			
410	53011	Mr. Matheson, D-UT		✓			
503	56131	Mr. Cardoza, D-CA					
		Vacancy					
TOTAL			21	14			

Attest: *Vivian A. Jucius* (Clerk)



## XX. EXCHANGE OF COMMITTEE CORRESPONDENCE

TOM DAVIS, VIRGINIA,  
CHAIRMAN  
DAN BURTON, INDIANA  
CHRISTOPHER SHAYS, CONNECTICUT  
LEAHY ROSS-BRITTON, FLORIDA  
JOHN M. McHUGH, NEW YORK  
JOHN L. MICA, FLORIDA  
MARK E. SOUDER, INDIANA  
STEVEN C. LAFLOURETTE, OHIO  
TODD COPE, CALIFORNIA  
RON LEWIS, KENTUCKY  
JO ANN DAVIS, VIRGINIA  
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ALVIN H. FRYMAN, FLORIDA  
EDWARD L. SCHROCK, VIRGINIA  
JOHN J. DUNCAN, JR., TENNESSEE  
JOHN SULLIVAN, OKLAHOMA  
NATHAN DEAN, GEORGIA  
CANDICE MILLER, MICHIGAN  
TIM MURPHY, PENNSYLVANIA  
MICHAEL R. TURNER, OHIO  
JOHN R. CARTER, TEXAS  
WILLIAM J. JANKLOW, SOUTH DAKOTA  
MARSHA BLACKBURN, TENNESSEE

ONE HUNDRED EIGHTH CONGRESS  
**Congress of the United States**  
**House of Representatives**

COMMITTEE ON GOVERNMENT REFORM  
2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5074  
FACSIMILE (202) 225-8974  
MINORITY (202) 225-5091  
TTY (202) 225-8832

[www.house.gov/reform](http://www.house.gov/reform)

July 24, 2003

HENRY A. WAXMAN, CALIFORNIA,  
RANKING MEMBER  
TOM LANTOS, CALIFORNIA  
MAJOR R. OWENS, NEW YORK  
EDOLPHUS TORRES, NEW YORK  
PAUL E. KANJORSKI, PENNSYLVANIA  
CAROLYN B. MALONEY, NEW YORK  
BLUHLIE COMBINGS, MARYLAND  
DENNIS J. KUCINICH, OHIO  
DANNY K. DAVIS, ILLINOIS  
JOHN F. TIERNEY, MASSACHUSETTS  
THE LADY CLAY BRISSETTE  
DIANE E. WATSON, CALIFORNIA  
STEPHEN F. LYNCH, MASSACHUSETTS  
CHRIS VAN HOLEN, MARYLAND  
LINDA T. SANCHEZ, CALIFORNIA  
C.A. RITCHIE REPPERSBERGER,  
MARYLAND  
ELIZABETH HOLMES NORTON,  
DISTRICT OF COLUMBIA  
JILL COOPER, TENNESSEE  
CHRIS BELL, TEXAS  
BERNARD SANDERS, VERMONT,  
INDEPENDENT

The Honorable Sherwood L. Boehlert  
Chairman  
Committee on Science  
U.S. House of Representatives  
Washington, D.C. 20515

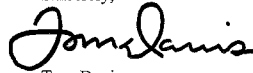
Dear Mr. Chairman:

Thank you for working with me in developing 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. It is my understanding that you intend to move H.R. 1085 to the floor with an amendment that will be similar to Title III, Subtitle B of H.R. 1836, as reported by the Committee on Government Reform.

In the interests of moving this important legislation forward, I will not object to the discharge of the Committee on Government Reform from further consideration of H.R. 1085. However, I do so only with the understanding that this procedural route should not be construed to prejudice the Committee on Government Reform's jurisdictional interest and prerogatives on this bill or any other similar legislation and will not be considered as precedent for consideration of matters of jurisdictional interest to my Committee in the future.

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 Committee Report on H.R. 1085 and the Congressional Record during floor consideration. Thank you for your assistance and cooperation in this matter.

Sincerely,



Tom Davis  
Chairman

U.S. HOUSE OF REPRESENTATIVES  
COMMITTEE ON SCIENCE

SUITE 2320 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6301  
(202) 225-6371  
TTY: (202) 226-4410  
<http://www.house.gov/science/welcome.htm>

July 25, 2003

The Honorable Tom Davis  
Chairman  
Committee on Government Reform  
Rayburn House Office Building  
Washington, D.C. 20515

Dear Mr. Chairman:

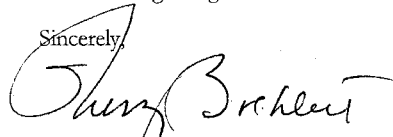
Thank you for your letter concerning H.R. 1085, the NASA Flexibility Act of 2003. I appreciate your offer to discharge the bill and expedite its consideration. We plan to move H.R. 1085 to the floor with an amendment that will be similar to Title III, Subtitle B of H.R. 1836, as reported by the Committee on Government Reform. We also intend to discharge H.R. 1836 from the Committee on Science by July 25, 2003.

I agree that by discharging H.R. 1085 the Committee on Government Reform is not waiving its jurisdiction. Be assured that our Committee plans to work with you to ensure passage of this legislation.

We intend to include a copy of our exchange of letters on this matter in the Committee Report on H.R. 1085 and the *Congressional Record* during floor consideration of H.R. 1085. Further, I would be pleased to support the representation of your Committee at any conference on H.R. 1085 as well as any similar or related legislation and would ask that you support a similar request by the Committee on Science.

Thank you for your consideration and attention regarding this matter.

Sincerely,



SHERWOOD L. BOEHLERT  
Chairman

## XXI. EXCHANGE OF CORRESPONDENCE FROM OUTSIDE ORGANIZATIONS



750 First Street, N.E.  
Washington, DC 20002

Voice: (202) 336-6136  
(800) 343-7793

The Honorable Sherwood Boehlert  
Chairman  
Committee on Science  
House of Representatives  
Washington DC 20515

The Honorable Ralph Hall  
Ranking Minority Member  
Committee on Science  
House of Representatives  
Washington, DC 20515

Dear Chairman Boehlert and Congressman Hall:

We are writing to encourage you to support passage of HR 1085, the NASA Flexibility Act of 2003, sponsored by you, Mr. Chairman, and under consideration by the Committee on Science. NASA's ability to maintain a workforce with the talent to perform cutting-edge work is threatened by several converging trends. We strongly urge you to support enactment of this legislation now, so that action can be taken before these trends will not lead NASA into a crisis.

As former Administrators, we remain devoted to the aeronautics and space programs of our Nation. NASA fulfills a unique role in assuring our Nation's technological future, promising exciting new discoveries, inspiring future generations to expand their minds and explore the Universe, and encouraging more careers in science and engineering. NASA's spectacular past and future promise hinge on the quality of its workforce. It is the extraordinarily talented people who make up the NASA workforce who have led us to past glory, and will lead us through the challenges and discoveries yet to come.

Unfortunately, NASA faces some tough challenges in ensuring that the best talent is in place to carry out its ambitious mission. We have all seen the numbers. Almost three times as many people in the science and engineering community are over 60 years of age as are under 30. Twenty-five percent of the science and engineering workforce at NASA will be eligible to retire within the next 5 years. Sixty percent of NASA's positions are S&E employees; many are highly technical, and will be difficult to back-fill. Due to nearly a decade of downsizing, some critical areas of NASA endeavor lack bench-strength, and may be only one-deep. At the same time, fewer students are pursuing degrees in science- and technology-related fields just as the demand for top-notch graduates is growing.

The NASA Alumni League is a private, nonprofit organization and is not affiliated with any agency of the United States Government.

May 12, 2003  
Page 2

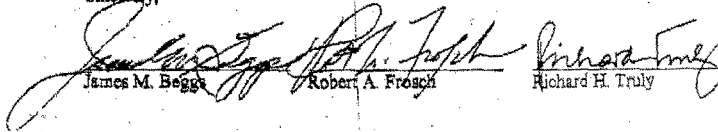
We believe that NASA's management must take steps now to avoid a serious deficit in key competency areas. We are pleased that NASA is identifying skill gaps and building workforce and succession-planning capability. In short, NASA is ready to take action.

Key to the success of these strategic efforts are the tools to attract, hire, compensate, and retain world-class employees. Because of the cutting-edge work they do, NASA needs the very best workers to continue its tradition of breakthrough technology and scientific discovery. We are herewith uniting our voices in support of legislation to aid NASA to successfully manage and develop its human capital. The private sector has extensive flexibility in both hiring and compensation. If NASA is to compete for the very best, the agency needs to have the human capital tools offered in legislation.

H. R. 1085 will help NASA address its human capital needs. For example, the enhancements to the current authority to pay recruitment, retention, and relocation bonuses will improve the ability to attract and retain the highest quality individuals with the competencies NASA needs. The changes to term-appointment authority address NASA's project-oriented work, eliminating several barriers to achieving a more flexible workforce. And the bill would offer enable NASA to bring talent into the workforce by extending the length of assignments possible under the Intergovernmental Personnel Act and by allowing similar employee exchanges with the private sector.

We appreciate your efforts on NASA's behalf, and stand ready to support the efforts of Congress on NASA's behalf in any way we can.

Sincerely,

  
James M. Beggs      Robert A. Frasch      Richard H. Truly



**INTERNATIONAL FEDERATION OF  
PROFESSIONAL & TECHNICAL ENGINEERS  
AFL-CIO & CLC**

8630 Fenton Street, Suite 400, Silver Spring, MD 20910  
301-565-9016 • FAX 301-565-0018 • www.ifpte.org

June 25, 2003

**Gregory J. Junemann**  
President

**Dolores A. Gorczyca**  
Secretary, Texas, IFFTE

**Dominick Critelli**  
Executive VP  
Atlantic

**Terrance Antisdal**  
Midwest IFFTE

**Charles Boffending**  
SPECA

**Craig Buckham**  
SPEEA

**Thomas Coulson**  
Northern IFFTE

**Terry Eleftherion**  
Eastern Federal

**Howard Hillson**  
California

**Carol Isen**  
Western

**Joseph McGee**  
North Western

**Bruno Salvatore**  
Atlantic

**Benjamin Toyama**  
Western Federal

Hon. Sherwood Boehlert, Chairman  
House Science Committee  
2320 Rayburn House Office Building  
Washington, DC 20510

Dear Chairman Boehlert:

The International Federation of Professional and Technical Engineers (IFPTE), which represents over 8,000 federal employees at NASA, 32,000 federal employees outside of NASA, and 80,000 U.S. workers overall, is pleased to endorse the version of HR1085 that will be put forth for mark-up in the subcommittee on Space and Aeronautics tomorrow.

We are extremely appreciative of the candid and constructive dialog between you, your staff, and IFPTE over the last few months. We believe the final outcome of the collaborative working relationship between your office and IFPTE has led to a legislative proposal that will better serve the agency, its employees, and the Nation. IFPTE is especially pleased with the rigorous notification, planning, and monitoring portions of the bill, with the inclusion of financial incentives reserved almost exclusively for the recruitment and retention of rank and file technical staff. In addition, IFPTE applauds you for ensuring that the proposed Industry Exchange program not be included in your bill. As you know, IFPTE believes that such a program, in any form, would seriously compromise the agency's independence from the very contractors it must oversee.

It is also important to make note of our concerns surrounding HR 1085's original inclusion of language that would have completely lifted the cap on demonstration projects at NASA. Through our negotiations however, IFPTE is pleased with our agreed upon compromise. IFPTE is satisfied that a lifting of the cap from 5,000 individuals to 8,000 individuals is an adequate compromise that will not only give the Administrator his requested flexibility, but will also continue to protect NASA workers. This compromise will guard against the potential dangers that unlimited demonstration project authority could have on NASA workers.

Although we are endorsing the proposed legislation now, we will continue to work closely with members of the House and Senate as this legislation and its Senate counterpart move through the legislative process. While IFFTE firmly believes that HR1085 represents the best overall bill and directly addresses many of our concerns, we will endeavor in conference to incorporate those aspects of S.610 that would further improve the final legislation. In particular, we will be looking for acknowledgement of those recommendations that come out of the final report of the Columbia Accident Investigation Board, especially those pertaining to rectifying management problems at NASA.

As Science Committee Chairman, you are to be commended for recognizing the workforce crisis facing the agency. In this regard, it is critical that NASA maintain its technical excellence by recruiting the next generation of world-class scientists and engineers into public service, as well as by retaining and rewarding those scientists and engineers and other civil-service employees who have already dedicated their careers to the agency and to the country. HR 1085 is the appropriate vehicle in achieving these goals.

As a union, IFFTE is optimistic that, in the future, we can continue to work with you and Administrator O'Keefe to help refocus the agency on its core missions of science, technical innovation, aeronautics, space exploration, and inspiration for mankind. Today's efforts are reflective of an ongoing effort in achieving this mission.

Again, thank you for your willingness to work with IFFTE in addressing the concerns of NASA's workforce, while also working to ensure that the core missions of the agency can be fulfilled. We look forward to working with you as this issue continues to move through the legislative process.

Sincerely,



Gregory J. Junemann,  
President

GJJ/pjc  
Opetu#2

July 21, 2003

The Honorable Sherwood Boehlert, Chairman  
Committee on Science  
House of Representatives  
Washington, DC 20515

Dear Chairman Boehlert:

The NASA Aerospace Safety Advisory Panel (ASAP)—a senior advisory committee established by Congress after the Apollo spacecraft fire in January of 1967—has identified “human capital and culture” as one of its top priorities for examination in 2003. As the chair of the Panel, I would like to offer you my wholehearted endorsement of H.R. 1085, the NASA Flexibility Act of 2003. The Panel is united in its conviction that NASA must take dramatic steps to ensure that it recruits, develops, and retains world-class scientific and engineering talent vital to the NASA mission. This will require aggressive action by the Agency over the long term.


As you know, NASA faces a number of critical challenges in maintaining a world-class workforce. Approximately fifteen percent of NASA’s scientific and engineering workforce is eligible for retirement today. Within five years, almost twenty-five percent of this workforce will be eligible. NASA’s over-sixty scientific and engineering population outnumbers the under-thirty group by almost three-to-one, and this has been an accelerating and alarming trend over the last decade: In 1993, for instance, the under-thirty scientific and engineering group outnumbered the over-sixty group by almost two-to-one. This has occurred just as American students have shown a diminished interest in pursuing science and engineering degrees.

Reversing these trends will be difficult due to both demographic and economic factors; however, there is no question that the provisions embodied in the NASA Flexibility Act will help to give the management team at NASA a fighting chance.

America’s protracted shortage of highly trained scientists and engineers is a problem with which I am familiar. For more than three decades, I was employed at The Aerospace Corporation where I directed a subdivision of computer scientists and electrical engineers who developed software for military satellite systems. And prior to my retirement in 1996, I spent five years as the General Manager of Human Resources at that Corporation. Because I believed then—as I firmly believe now—that the shortage of engineers and scientists is the biggest single factor that could adversely affect America’s future prosperity, I began speaking to students at universities across the nation and to high school students and guidance counselors in Southern California. In all of these talks, I have sung the praises of technology to encourage young people to opt for careers in science and engineering. I have also sponsored two engineering scholarships. Many of the Panel members have made similar commitments.

I have reviewed this proposed legislation, and attached an addendum containing my comments on individual sections of the Act. I have also attached a copy of the Panel's annual report and would be happy to discuss any of this information with you or your staff.

Sincerely,

A handwritten signature in cursive script that reads "Shirley C. McCarty". The signature is written in black ink and is positioned above the typed name and title.

Shirley C. McCarty, Chair  
Aerospace Safety Advisory Panel



## ADDENDUM

### Comments On A Number Of Sections Of The NASA Flexibility Act of 2003

#### **Proposed Section 9808 - Extension of IPA Assignments**

When NASA, together with Congress, decides to embark on the design and development of the Orbital Space Plane, it will require that a massive amount of research be conducted, particularly in the realm of sophisticated electronics and materials because these are the areas that are of pivotal importance in producing the operating efficiencies required to justify the construction of a new family of spacecraft. Section 9808 will extend the limit on IPA assignments from 4 years to 6 years, which means that research projects will not be truncated due to the lack of scientific and technical personnel required to complete them. Unfortunately for NASA, foreign nationals currently make up over one-third of all of the research assistants in America's major academic science and engineering laboratories.

#### **Proposed Section 9809 - Enhanced Demonstration Project Authority**

Since the high-tech bubble broke in 2000, the economy has been going nowhere fast for the past three years. In California's Silicon Valley, high-tech employees are now pounding the pavement in search of work instead of pounding on computer keyboards while designing software and semiconductors. As a consequence of the economic downturn, some Neo-Luddites, who only feel comfortable with linear extrapolations, have forecast that the red-hot sellers' market for scientists and engineers of the '90's was a short-lived phenomenon that will not be revisited anytime soon.

I contend that what the nation is experiencing in high-tech is merely the pause that refreshes, and that the economy is about to begin a period of robust growth fueled by interest rates that are at a 41-year low and Federal deficits that are ballooning. The smart money is betting that the U.S. Gross Domestic Product will increase by a substantial 3.2% in 2004, second among the developed nations of the world only to Australia's roaring 3.5%.

The next big bull market for scientists and engineers will have as its foundation the skeins of fiber optic cables that were pounded down at the turn of the century. In one very short period (1998-to-2001) the amount of fiber placed in trenches throughout the U.S. increased by fivefold. During the same period, Ultradense Wavelength Division Multiplexing heightened the carrying capacity of each strand of glass 100-fold; consequently, the supply of transmission capacity throughout the U.S. increased 500-fold. This should have been the best of all possible worlds, except that during this same short period the demand for transmission capacity only quadrupled.

But now American corporate chieftains are developing business models to take advantage of all that glass—and to make buckets of money in the process. An excellent example of an innovation whose success is predicated on the ability to tap into that surfeit of glass is Wi-Fi (Wireless Fidelity), a technique that lets the public use cell phones, PDA's, and lap top PC's to

reach the Internet via radio waves at "hot spots" located at the likes of Starbucks, McDonald's, and the preponderance of the nation's airports. Using Wi-Fi—which is also known as 802.11, after the specification set by IEEE—a device can move data fully 10 times as fast as a cable modem or a DSL phone line.

Some of the major players in chip architecture and computer operating systems are planning major thrusts into the realm of Wi-Fi. Intel has earmarked \$300 million to market Centrino, its pack of Wi-Fi chips and components, and Microsoft is starting a major plunge into Wi-Fi software.

Also almost no one that understands the telecommunications industry doubts that the Regional Bell Operating Companies will soon be utilizing Wi-Fi in some form. For instance, on May 10, 2003, a spokesman for Verizon Communications—a firm formed by the merger of two Baby Bells (Nynex and Bell Atlantic) plus GTE—announced plans to install Wi-Fi in its pay phones in the metropolitan cities that it serves. Manhattan is first in line.

And Wi-Fi is already engendering significant secondary spending. Despite soft economic conditions worldwide, brought about by tight monetary policies, 9-11, the Iraq War, and more recently SARS, global shipments of mobile phones increased by nearly 17% in the first quarter of 2003 vis-à-vis the previous year's first quarter. This increase is directly attributable to the advent of G-3 phones (devices that handle data as well as voice) that sport such neat features as a camera. Cisco Systems has just introduced a new wireless IP phone (its model #7920) that is Wi-Fi enabled.

The firm foundation of fiber optic cable will produce another sellers' market for scientists and engineers in the near future. In 2002 a full 40% of the Ph.D.'s awarded by U.S. universities in computer science and engineering went to foreign nationals (a group relatively inaccessible to NASA). The space agency must have the ability, in concert with its employees and unions, to try some of the best practices tested in other federal departments and agencies in order to create a workplace attractive to highly qualified candidates. As the Baby Boomers approach retirement, as the Baby Busters grow more reluctant to embrace the rigors of graduate study, and as an increasing number of foreign nationals fill the university science and engineering labs, NASA must be able to improve its ability to recruit, or it will not have the technical talent required to accomplish the objectives assigned to it by the Congress and the American people.

#### **Proposed Section 9811 – NASA Science and Technology Scholarship Program**

I believe that this would be a splendid use of tax payers' money because it would heighten the nation's long-term competitive posture by deepening the aggregate pool of scientists and engineers.

Prospective college students currently find themselves caught in a cruel pincers movement. The top jaw is the soaring cost of tuition. Between 2000 and 2003, tuition-cost increased a whopping 21% at America's public universities, with rates of increase running even higher at the private institutions. The bottom jaw is the recent severe contraction in family savings. Since the burst of the high-tech bubble, the stock market has shrunk by a mind-boggling \$8 trillion—losing 42

cents for every dollar in the 2000 market. In this environment, college-tuition-for-service-at-NASA only makes good sense. Since 1990, the number of Americans enrolled in technology has declined by 5% a year.

However, I would recommend that the bill require only one year of service with NASA, rather than two, for every one year of scholarship assistance. A two-year commitment, which translates into eight years working for the same employer for four years of scholarship aid, would be a disincentive to the students who may thus turn elsewhere in this competitive market.

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Aerospace Safety  
Advisory Panel  
Annual Report for 2002

The modeling fidelity of these predominantly software systems must be validated.

**Recommendation 02-23:** Assign authority and responsibility for functional validation and verification of system and spacecraft simulators/emulators to the NASA IV&V Facility. Ensure that the IV&V Facility has sufficient funding and skilled personnel to meet this responsibility.

## 2. Workforce

The decision to extend the life of the Space Shuttle this year has given a large portion of NASA's workforce a much-needed morale boost. The expectation that jobs will be stable has relieved some of the stress that resulted from the uncertainty associated with the short-term planning horizons of the past several years. However, the contractor workforce has been unsettled by the minimal 2-year extension of the Space Flight Operations Contract (SFOC) awarded to United Space Alliance and by RAND's Competitive Sourcing Study. Nevertheless, morale is high and dedication to safety is steadfast.

The successful transition of the Boeing OMM and support engineering functions from California to KSC and JSC is attributed to excellent planning, vigilant management, and a capable and flexible workforce.

NASA's human space flight programs continue to set records and achieve remarkable feats. The primary credit goes to the workforce, a national treasure of intellectual capital. This treasure, however, is being threatened on two fronts. First, the workforce is aging, with 25 percent of NASA employees eligible for retirement over the next 5 years. Second, the reinforcement pipeline is shrinking, producing fewer science and engineering graduates interested in aerospace careers. For the best and brightest of these, there are many more options than there were when the space race was born. This is not a problem that can be resolved with competitive sourcing; the problem exists across the entire aerospace industry.

07-21-2003 16:39

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53

IV. Program Area Findings  
and Recommendations

With the high level of impending retirements, NASA and its contractors will lose significant capability unless aggressive steps are taken immediately. The SLEP affords NASA a rare opportunity to build workforce capabilities. A recent study performed by the Commission on the Future of the United States Aerospace Industry points out that knowledge captured through collaborative work and the relationships developed with suppliers over time are the capabilities that will be the most difficult to replace. While veterans remain to provide perspective and lessons learned, less seasoned professionals must be given opportunities for building these relationships through hands-on experience in designing, developing, and operating upgraded systems. Only through this process can a new generation of leaders emerge with the requisite knowledge, skills, and confidence to achieve NASA's long-term objectives.

Over the past 2 years, NASA has implemented many excellent human capital initiatives and is designing sophisticated information systems to increase effectiveness in all areas of human capital management. These initiatives and systems address most of the prior years' recommendations. However, a skilled workforce is expected to be in short supply for many years to come. Hence, last year's finding and recommendation are continuing.

**Finding 01-6:** The safety of NASA's human space flight programs will always be dependent on the ability of a skilled, experienced, and motivated workforce.

**Recommendation 01-6:** Accelerate efforts to ensure the availability of critical skills and to utilize and capture the experience of the current workforce.

**Panel Assessment:** Recommendation 01-6 is continuing. This issue will require aggressive action for the foreseeable future.

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Aerospace Safety  
Advisory Panel  
Annual Report for 2002

#### White Paper on NASA's Legislative Initiatives for Human Capital Management

**Purpose:** The Administrator asked the Panel to examine the NASA legislative proposals for human capital management, and to determine if these actions would be beneficial in allaying the workforce deficiencies noted in previous ASAF reports. This paper is written in response to that request.

**Background:** For more than five years the Panel has focused on workforce issues. At the outset the primary concern was the erosion of critical skills and experience levels as a result of retirements and downsizing. More recently the alarming issues have been the demographics of the existing workforce (25% eligible for retirement in the next five years), coupled with the low supply of scientists and engineers in the education pipeline. The entire aerospace industry is facing a human capital crisis. Two recent reports—one produced by the Commission on the Future of the United States Aerospace Industry and the other by a top-level Department of Defense team on Aerospace Industry Base Issues—also highlighted this issue. The already keen competition for scientific and engineering graduates will only be exacerbated as the economy rebounds. Creativity and bold steps will be required to recruit and retain the highly skilled workforce needed by both NASA and its contractors to continue the safe exploration of space.

The combination of NASA's downsizing and the strong competition for highly trained experts with critical skills in emerging disciplines has resulted in shortages that have the potential to jeopardize safety in both the Space Shuttle and International Space Station Programs. The Panel has made ten recommendations in the past four years that dealt with recruitment, retention, training, and development of the workforce.

In 1998, the Panel's recommendations included providing budgetary resources and the administrative flexibility to strengthen the workforce at human space flight field Centers, and developing training and career paths that emphasize hands-on experience that prepares future leaders for management roles. In 1999, the focus was placed on eliminating shortages in critical skills and on recruiting new graduates with up-to-date training. In 2000, the Panel recommended providing more effective incentives to hire and retain employees with critical skills; partnering with NASA contractors to provide opportunities for hands-on experience in industry; providing mentors and career development incentives to expeditiously bring new employees to full productivity; and developing and implementing a comprehensive, long-term workforce plan. In 2001, the Panel recommended accelerating efforts to ensure the availability of critical skills and new initiatives to utilize and capture the experience of the current workforce.

**Findings and Conclusions:** NASA has responded with comprehensive plans and legislative proposals that address the issues that the Panel has raised. In cases where governmental regulations restrict flexibility in the competition for talent in the current environment, NASA has proposed legislation to lift the barriers and to provide the freedom to manage NASA's workforce so that safe operations can be maintained.

NASA's plans cannot be accomplished without the sustained, vigilant commitment to human capital efforts by the entire NASA management team. Nor can many of the plans be accomplished without the passage of the proposed legislative changes. The Panel is encouraged by NASA's proactive development of comprehensive human capital programs and plans, and by management's commitment to implement them. The Panel is disappointed that the necessary legislation to bring these programs to fruition has not yet been passed so that NASA can get out in front of the human capital race and ensure the safety of its people.

## XXII. MINORITY VIEWS

We submit these Minority Views with a sense of profound disappointment over a missed opportunity. Despite the stated objectives for this legislation, H.R. 1085 is more notable for what it does not do than for what it accomplishes.

H.R. 1085 has been described as a “targeted” approach intended to stem a “brain drain” at NASA. To that end, the bill provides enhanced recruitment, relocation, and retention bonus authorities requested by NASA. At the same time, however, NASA’s FY 2004 budget request proposes a “decreasing civil service workforce” through FY 2008—not a proposal consistent with a stated effort by NASA to stem an alleged outflux of skilled employees from the agency. H.R. 1085 does nothing to reverse that situation. In addition, NASA’s FY 2004 request budgets almost 20 percent less for bonuses for the NASA Centers than was actually paid out to prospective and existing Center employees in FY 2000—hardly an indication that the agency is seeking to make aggressive use of its existing bonus authority—let alone the more generous authority that it would receive under this legislation. H.R. 1085 does nothing to reverse this situation either.

H.R. 1085 proposes to enhance NASA’s workforce demonstration project authority. Following NASA’s direction, the original version of H.R. 1085 would have eliminated entirely the ceiling on the number of NASA employees that could be made subject to a demonstration project—effectively allowing NASA management to change the entire agency’s personnel system without prior Congressional approval. At the subcommittee markup of H.R. 1085, the Chairman—with NASA’s concurrence—changed the proposed demonstration project ceiling to 8,000, which is the number of non-union employees at the agency. No rationale was given for the change to a level NASA had previously said would not meet its needs. More importantly, not only has NASA never made use of the generous 5,000 employee demonstration project authority it has under existing law, but NASA management has steadfastly refused to tell this Committee what it would do with the enhanced authority it is seeking in this bill. With the Space Shuttle accident investigation uncovering troubling information about management and workforce practices in the agency, this is not the time to be loosening Congressional oversight of NASA’s workforce rules. An attempt to eliminate the enhanced demonstration project authority was defeated by the narrowest of margin (a 20–20 tie) on a party-line vote.

The above-mentioned items represent some of the shortcomings of H.R. 1085 in addressing its own “targeted” objectives. However, our concerns with this legislation run far deeper. Fundamentally, we believe it is a mistake to make a virtue of the narrowness of vision represented by this bill’s focus on a limited set of personnel

practices when the evidence is mounting that the NASA workforce is confronting challenges of almost crisis proportion. Those larger workforce challenges deserve our attention if we are to best serve the interests of NASA's employees.

Most glaring is H.R. 1085's failure to address in any substantive manner the workforce issues being raised by the investigation of the Space Shuttle *Columbia* accident. Ranking Member Ralph Hall offered an amendment at the full committee markup containing provisions designed to enhance NASA's independent safety office, start NASA down the road to developing a viable crew escape system for the Space Shuttle, require NASA to certify that its use of "buyouts" would not result in the loss of any critical Space Station or Space Shuttle skills, and bar any further contracting out of NASA functions to the private sector until NASA responds to and implements the *Columbia* Accident Investigation Board (CAIB). Rep. Hall was prevented from obtaining a vote on these provisions at the full committee markup when the Chairman ruled them to be "non-germane", even though they directly address the health, safety, and administration of the NASA workforce.

Paradoxically, the Minority was also told that consideration of any amendments that might relate to the Space Shuttle investigation should be deferred until after the CAIB's report is released some five weeks from now. Yet when all of the Democratic Members of the Science Committee sent a letter in May to the Chairman urging that the markup of NASA workforce legislation be delayed until after the Accident Board's report was released so that we might take its findings into account during our deliberations, our recommendation was rejected.

Representative Nick Lampson offered an amendment at the full committee markup that would have compelled NASA to establish clear goals for the human space flight program. He argued that the best and brightest employees aren't attracted to NASA by money—rather, it is the promise of challenging and exciting work. At present NASA's human space flight program remains adrift with no goals or destinations—a situation that predated the *Columbia* accident and which cannot be blamed on that tragedy. His amendment was voted down on a party-line vote.

An amendment by Representative Brad Miller would have required NASA to get an independent assessment of the extent to which it was making use of its existing workforce flexibility authorities before any of the proposed new authorities could take effect. Such a requirement would seem to be a good-government provision that recognizes the need for Congress to know how well existing statutory authorities are being used before we grant additional ones. Unfortunately, Republican Miller's amendment was also defeated on a party-line vote.

Representative Sheila Jackson Lee offered an amendment to reinstate the Minority University Research and Education activities as a Division after they were demoted to program status by NASA. The intent of the amendment was to ensure that the important work being done on minority university research and education would not be allowed to suffer through inattention or competition with other programs under NASA's new organizational structure. Her amendment too was defeated on a party-line vote.



The news at the full committee markup was not all bad. We were pleased that the Majority accepted Representative Miller's amendment to prohibit political appointees from making use of the bonuses and other incentives in H.R. 1085. We likewise applaud their willingness to accept Representative Eddie Bernice Johnson's amendment to encourage NASA to continue to seek a diverse workforce and Representative Jackson Lee's amendment to direct NASA to report back to the Committee on how it will implement its workforce flexibility authorities without compromising safety.

At the end of the day, however, these improvements to H.R. 1085 do not outweigh the failure of the bill to address the major issues confronting the NASA workforce. It was a missed opportunity. We can and should do better.

RALPH M. HALL.  
JERRY F. COSTELLO.  
ANTHONY WEINER.  
LINCOLN DAVIS.  
BRAD MILLER.  
JOHN B. LARSON.  
BART GORDON.  
NICK LAMPSON.  
JIM MATHESON.  
DENNIS MOORE.  
EDDIE BERNICE JOHNSON.  
MICHAEL HONDA.  
DENNIS CARDOZA.  
SHEILA JACKSON LEE.  
MARK UDALL.  
LYNN WOOLSEY.  
DAVID WU.  
CHRIS BELL.  
BRAD SHERMAN.  
BRIAN BAIRD.



**XXIII. PROCEEDINGS OF THE MARKUP BY  
THE SUBCOMMITTEE ON SPACE AND AERO-  
NAUTICS ON H.R. 1085, NASA FLEXIBILITY  
ACT OF 2003**

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**THURSDAY, JUNE 26, 2003**

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON SPACE AND AERONAUTICS,  
COMMITTEE ON SCIENCE,  
*Washington, DC.*

The Subcommittee met, pursuant to call, at 10:05 a.m., in Room 2318 of the Rayburn House Office Building, Hon. Dana Rohrabacher [Chairman of the Subcommittee] presiding.

Chairman ROHRABACHER. I now call the Subcommittee on Space and Aeronautics to order. Good morning. And pursuant to notice to the Subcommittee on Space and Aeronautics is that we are meeting today to consider the following measures: H.R. 1085, the NASA Flexibility Act of 2003, and then the Committee Print for the Federal Aviation Administration Research and Development Reauthorization Act.

And I welcome everyone to this markup this morning. And this is the first markup of this subcommittee for the 108th Congress. Let me also be the first to thank Chairman Boehlert for his leadership. Is he here with us yet? He will be. Chairman Boehlert is on his way, and we appreciate his leadership for tackling a difficult, yet crucial, issue and that is NASA's workforce needs.

Today's markup concerns H.R. 1085, the NASA Flexibility Act of 2003. NASA is facing a crisis regarding its workforce. A significant portion of the workforce will be eligible to retire soon, so action needs to be taken. H.R. 1085 is intended to provide NASA the flexibility necessary to attract the best of the brightest talent in the fields of engineering and science by helping NASA address the problems of recruiting and retaining highly skilled technical personnel. H.R. 1085 provides NASA with the authority needed to ensure that our skilled workforce continues to be our greatest asset for pushing the boundaries of this great new frontier of space.

We will also markup the Federal Aviation Administration Research and Development Reauthorization Act. This bill authorizes funding for civil aviation research and development. It also calls for a joint FAA and NASA initiative aimed at resolving the problems facing our national air traffic management system.

This morning, I look forward to working with my colleagues on both sides of the aisle, and I am confident that our efforts will help maintain America's leadership role in aerospace.

I also would like to thank Bart Gordon, the Ranking Member of the Subcommittee, for his hard work on this and his openness and willingness to work in a very bipartisan manner on this bill. And I know there were some rough edges we had to work out, and I appreciate that he did this with goodwill and went forward in trying to make sure that we could get this job done. And I certainly now would recognize you for any opening remarks that you would like to make.

[The prepared statement of Chairman Rohrabacher follows:]

PREPARED STATEMENT OF CHAIRMAN DANA ROHRBACHER

I want to welcome everyone here this morning for the Space Subcommittee's first markup of the 108th Congress. Let me also be the first to thank Chairman Boehlert for his leadership in tackling a difficult, and yet, crucial issue—NASA's workforce needs.

Today's markup concerns H.R. 1085, the NASA Flexibility Act of 2003. NASA is facing a crisis regarding its workforce. A significant portion of the workforce will be eligible to retire soon. So action needs to be taken. H.R. 1085 is intended to provide NASA the flexibility necessary to attract the best and brightest talent in the fields of engineering and science.

By helping NASA address the problem of recruiting and retaining highly skilled technical personnel, H.R. 1085 provides NASA with the authority needed to ensure that a skilled workforce continues to be our greatest asset for pushing the boundaries of new frontiers.

We will also markup the Federal Aviation Administration Reauthorization Act. This bill authorizes funding for civil aviation research and development. It also calls for a joint FAA and NASA initiative aimed at solving the problems facing our national air traffic management system.

This morning I look forward to working with my colleagues on both sides of the aisle. I am confident that our efforts today will help to maintain our leadership role in aerospace.

Mr. GORDON. Mr. Chairman, you are going to make me feel bad here with all of those nice words. This is a very important issue, and I think that there was sincere effort to get this workforce issue off to the right direction, but somewhere between here and the barn, I am afraid it got turned around a little bit. And so I will not be able to support the proposal today. And I would like to spend just a few minutes explaining why.

On May the 13th of this year, all of the Members of the Democratic caucus of the Science Committee sent a joint letter to Chairman Boehlert. And I would like to ask unanimous consent that that letter be inserted into the record of this markup.

Chairman ROHRBACHER. Without objection.

[The information follows:]

U.S. HOUSE OF REPRESENTATIVES  
COMMITTEE ON SCIENCE

SUITE 2320 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6301  
(202) 225-6371  
TTY: (202) 226-4410  
<http://www.house.gov/science/welcome.htm>

May 13, 2003

The Honorable Sherwood Boehlert  
Chairman  
Committee on Science  
U.S. House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

Your staff has indicated that the Subcommittee on Space and Aeronautics may mark up H.R. 1085, the "NASA Flexibility Act of 2003" before the Memorial Day recess. We welcome your commitment to consideration of the legislation by the relevant subcommittee prior to its consideration by the full Committee, but we believe that markup of this legislation should be delayed until after the release of the Gehman report.

Admiral Gehman has said that the Columbia Accident Investigation Board (CAIB) is examining issues related to NASA's workforce, contractors, and culture as it attempts to ascertain the "root causes" of the accident. Given the likelihood that the Board will have significant findings and recommendations in these areas, it would be prudent for the Committee to wait until the CAIB delivers its report before we consider legislative changes to NASA's workforce authorities. In the aftermath of the Space Shuttle *Columbia* tragedy, Congress should not take actions that could further destabilize the NASA workforce by raising concerns among the employees about potential changes to NASA's workforce rules.

In addition, a delay in consideration of workforce legislation would allow the Committee to receive and digest responses to the questions submitted by Members for the record of the February 27<sup>th</sup> hearing with Administrator O'Keefe and the March 12<sup>th</sup> hearing on H.R. 1085—responses that will be directly relevant to the Committee's consideration of any workforce-related proposals. It will also allow the Committee to ascertain more clearly the extent to which NASA is making use of existing workforce flexibilities—an issue that may make H.R. 1085 moot but that has not been adequately addressed in the hearings to date.

The Hon. Sherwood Boehlert  
May 13, 2003  
Page Two

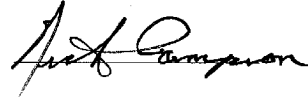
We share your view that NASA needs to maintain a strong and productive workforce to meet the challenges of the 21<sup>st</sup> century, and we are prepared to consider whatever legislative measures might help to strengthen that workforce. We believe, however, that the Committee can better carry out its oversight and legislative responsibilities in this area after the CAIB has submitted its report. Otherwise the Committee runs the risk of a premature markup with protracted consideration of amendments that attempt to anticipate the Board's recommendations. We do not believe that such an approach would be the best way for the Committee to address this complex issue.

Sincerely,

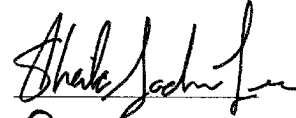
  
RALPH M. HALL

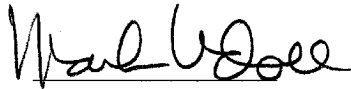
  
BART GORDON

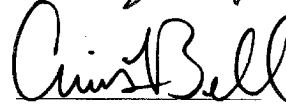




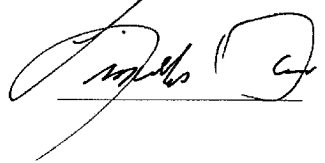












The Hon. Sherwood Boehlert  
May 13, 2003  
Page Three

John B. Jans  
Michael M. Has

John L.  
Eddie Bernice Johnson

Bill Baird  
Bill Shinn

Greg N. Condit  
R.

Robert M.  
Don C. Fisher

David W.

Mr. GORDON. In that letter, we asked him to delay the markup of any NASA workforce legislation until the *Columbia* Accident Investigation Board has reported and the Committee has had a chance to review its findings and recommendations. Admiral Gehman has said on several occasions that the Accident Investigation Board is examining issues related to the NASA personnel, contractors, and culture as it attempts to assert the root causes of the accident. In fact, Admiral Gehman was quoted yesterday in the *Washington Post* as saying a “goodly portion of the report, perhaps half,” will deal with the issues of management at NASA. Now in all fairness, not all of that will be dealing with the issue at hand, but certainly, I think, that a good portion will be. We should wait to hear what the Board concludes before we adopt the legislative provisions that might prove either counterproductive or insufficient to address the underlying problems identified by the Board.

No case for urgency appears to exist that would outweigh the benefits of waiting until we have the Board’s report. The July the 25th deadline given to the Science Committee for its consideration of H.R. 1836 is not relevant. We are not marking up H.R. 1836 today. The bill that is before us, on the other hand, is not scheduled for a Full Committee markup until just before the August recess and will not be ready for Floor consideration until the fall, under the best of circumstances.

I have an additional concern about today’s markup. The proposed amendment in the nature of a substitute that we received just 72 hours ago contained numerous provisions that were not in H.R. 1085. It also retains provisions that are questionable. Last night, we were informed that we are now proposing another version of the bill. The new bill appears to make some movement in a positive direction, and I hope that this signals the potential for a meaningful discussion on a consensus approach prior to Full Committee consideration of this bill.

At the same time, I think we have to consider the concerns of all of NASA’s 18,000 employees, not just a portion. For example, the “enhanced demonstration project authority” contained in the bill before us today still represents a change to the existing civil service statute. Despite our questions, NASA has still not said why they need this new authority or what they will use it for. In fact, they currently have authority for a demonstration project of 5,000 employees. What this bill does is add—increase that to an additional 8,000, which means all of the non-collective employees. And I think that it is instructive to note that the Senate Governmental Affairs Committee chose not to include that provision in the bill that it reported out on June the 17th by a 10 to 1 bipartisan vote.

Now I will concede that you probably will prevail on a party-line vote on the bill before us today, as was the case in the House Government Reform. However, I continue to believe that the party-line votes are not a signal that more work needs—or is a signal that more work needs to be done on legislation that should not be controversial. Concern for the wellbeing of the NASA workforce is not unique to one party. We all want to ensure that NASA has the skilled workforce it needs to carry out its mission in the years ahead. And we are prepared to consider whatever legislative measures are needed to strengthen that workforce.



We also need to ensure that the rights of NASA workers are protected. Moreover, NASA already has one of the highest percentages of workforce contracted out in the Federal Government. For better or worse, that level of contracting has a significant impact on the roles and responsibilities of the NASA civil servants. We need to understand the implications of that reality, also, and the Gehman Board may be able to assist us in that task.

Mr. Chairman, I would propose that this subcommittee defer this markup on this legislation until after we have a chance to review what the Gehman Board has to say. Let us also take a look at what the Senate has done on a 10 to 1 bipartisan basis. And let us sit down and try to come up with legislation that reflects a consensus of this subcommittee and the Full Science Committee. It is likely that we are going to have the chance to do only one NASA workforce bill this year, so let us take the time and do it right.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Gordon follows:]

PREPARED STATEMENT OF REPRESENTATIVE BART GORDON

Mr. Chairman, I cannot support the proposal before us today, and I would like to spend a few minutes explaining why. On May 13th of this year, all of the Members of the Democratic caucus of the Science Committee sent a joint letter to Chairman Boehlert. I would like to ask unanimous consent that the letter be inserted into the record of this markup. In that letter, we asked him to delay the markup of any NASA workforce legislation until the *Columbia* Accident Investigation Board has reported and the Committee has had a chance to review its findings and recommendations. Admiral Gehman has said on several occasions that the Accident Investigation Board is examining issues related to NASA's personnel, contractors, and culture as it attempts to ascertain the root causes of the accident. Indeed, Admiral Gehman was quoted in yesterday's *Washington Post* as saying a "goodly portion of the report, perhaps half," will deal with issues of management at NASA. We should wait to hear what the Board concludes before we adopt legislative provisions that might prove either counterproductive or insufficient to address the underlying problems identified by the board.

No case for urgency appears to exist that would outweigh the benefits of waiting until after the Board reports. The July 25th deadline given to the Science Committee for its consideration of H.R. 1836 is not relevant: we are not marking up H.R. 1836 today. The bill that is before us, on the other hand, is not scheduled for a Full Committee markup until just before the August recess and will not be ready for Floor consideration until the fall under the best of circumstances.

I have an additional concern about today's markup. The proposed amendment in the nature of substitute that we received just 72 hours ago contains numerous provisions that were not in H.R. 1085. It also retains provisions that are controversial to say the least. For example, the so-called "enhanced demonstration project authority" contained in the bill before us today was opposed by all of the Democratic Members of the House Government Reform committee at the recent markup of H.R. 1836. As they noted in their Minority View, "This provision would allow NASA to exempt the entire agency from most federal civil service laws." It is instructive to note that the Senate Governmental Affairs committee chose not to include that provision in the bill that it reported out on June 17th.

I will concede that you might prevail on a party line vote today, as was the case in the House Government Reform markup. Yet it is also highly likely that such a provision ultimately will not survive a House-Senate conference. More to the point, I believe that party-line votes are a signal that more work needs to be done on legislation that should be non-controversial. Concern for the well being of the NASA workforce is not unique to one party. We all want to ensure that NASA has the skilled workforce that it needs to carry out its mission in the years ahead. And we are prepared to consider whatever legislative measures are needed to strengthen that workforce.

We also need to ensure that the rights of NASA's workers are protected. Moreover, NASA has one of the highest percentages of work contracted out in the Federal Government. For better or worse, that level of contracting has a significant impact on the roles and responsibilities of the NASA civil servants. We need to under-

stand the implications of *that* reality too, and the Gehman Board may be able to assist us in that task.

Mr. Chairman, I would propose that this subcommittee defer its markup of this legislation until after we have had a chance to review what the Gehman Board has to say. Let's also take a look at what the Senate has done. And then let's sit down and try to come up with legislation that reflects a consensus of the subcommittee and the Full Science Committee. We are probably going to have only one chance this year to pass a NASA workforce bill. Let's take the time to do it right.

Thank you, and I yield back the balance of my time.

Chairman ROHRABACHER. Thank you very much, Mr. Gordon. And no, that was a very good opening statement. And Sherwood Boehlert has instructed me, as Subcommittee Chairman, to make sure we get this job done and move forward as soon as possible. And although I think your requests were very reasonable, and I, of course, follow the direction of my Full Committee Chairman and respect his judgments as well. So we will be moving forward, but I appreciate your concerns.

I would ask unanimous consent to—for the authority to recess this subcommittee at any point. Without objection, so ordered. So—and let me say, I think that this may be the time we are going to have to recess until Chairman Boehlert blesses us with his presence. And he has an amendment to offer, and that is the most important issue of the day to get through. So I think that I will declare—yes. Do you want to do that? That is a good idea.

Okay. We have to—this parliamentary procedure has to be exactly right. That is right. Wait a minute, we don't have a first reading of the bill yet, right? All right. We are going to have a short recess. So we are now in recess for five minutes.

[Recess.]

Chairman ROHRABACHER. And we are called back into order, of course. And let us see. We will now consider bill H.R. 1085. And I recognize Mr. Boehlert, the bill's sponsor, and the Chairman, of course, of the Full Committee on Science for any opening remarks that he may have. Mr. Chairman.

Chairman BOEHLERT. Thank you very much, Mr. Chairman, and thank you for the courtesy of delaying, somewhat, the opening. I apologize to my colleagues, but when you get in the middle of a conversation that is important on the telephone, you just can't say, "Sorry, Dana is summoning me." But I cut it short, because I said you were summoning me.

I am pleased to be able to take this bill up today, Mr. Chairman. We need to act as soon as possible to assist NASA at this critical time. I think it is simple and obvious that NASA needs to improve its ability to attract and retain the best and the brightest. Within five years, a quarter of the NASA workforce will be eligible to retire. That point has been made in numerous reports by the Government Accounting Office, including the latest report issued in January, not long before the loss, the tragic loss, of the Space Shuttle *Columbia*. So I don't think we can afford to wait any longer in dealing with this issue.

I know that my Democratic colleagues suggested that we wait until Admiral Gehman reports before taking up this bill. I heartily disagree. Admiral Gehman's report is not likely to say anything specific about workforce reforms. That is hardly the Gehman Board's focus. If anything, Admiral Gehman will simply reiterate

what we already know, that NASA needs to do more to attract and retain the best possible workforce. We can begin to help NASA do that today by approving 1085. This bill is a carefully tailored approach to NASA's problems. I will discuss some of the details of the bill when I offer my amendment.

I just want to make two points right now. First, we just didn't take what NASA gave us. Quite frankly, we don't just take what any agency gives us. We have great respect for the agencies. We value their input, but we exercise some judgment on this committee. We rejected some ideas immediately, such as creating an industry exchange program and allowing demonstration projects to become permanent automatically. We altered the language of NASA's proposals to make sure they accomplish their stated purpose and no more. And we added significant reporting requirements without saddling the agency with anything onerous or pointless.

Second, the authorities that we provide NASA in this bill are not radical departures from current law. They are extensions of existing authorities. For example, the bill allows NASA to pay higher bonuses than it can now, but it can already pay bonuses. In short, H.R. 1085 is a moderate, targeted, careful approach to enable NASA to overcome one of its fundamental pressing problems. In the next few months, this committee is going to spend a lot of time figuring out how to address a range of issues at NASA. Here is something we know how to do and we know how to do it now. It is time to act.

Thank you, Mr. Chairman.

Chairman ROHRABACHER. All right. It is the Chairman's intention that we try to get this job done in the next 15 minutes so we can just—

Chairman BOEHLERT. You tell me if you think it is doable or not, but I would ask unanimous consent to put in the record my letter to Mr. Gordon about his request for delay. And I want to stress this. This committee has not suddenly changed its *modus operandi*. We have continually, throughout my chairmanship, worked across the center aisle on a bipartisan basis. We continue to keep the Minority Staff advised of what we are doing as we proceed. We don't just one day walk in and say, "Now, here is what we are going to do, we have decided, because we are in the Majority." That is not the way this committee operates. And it is not going to operate any differently in the future.

Chairman ROHRABACHER. And you keep the Chairman of the Subcommittee informed as well.

Chairman BOEHLERT. Well, because the Chairman is a very important part of the leadership structure on this committee, as are the Ranking Members, I might add.

Chairman ROHRABACHER. Okay.

Chairman BOEHLERT. This is not a solo act.

Chairman ROHRABACHER. Okay. Without your—without objection, your letter will be placed in the record.

[The information follows:]

U.S. HOUSE OF REPRESENTATIVES  
COMMITTEE ON SCIENCE

SUITE 2320 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6301  
(202) 225-6371  
TTY: (202) 226-4410  
<http://www.house.gov/science/welcome.htm>

May 20, 2003

The Honorable Bart Gordon  
2304 Rayburn House Office Building  
Washington DC, 20515

Dear Mr. Gordon,

Thank you for your letter expressing your view that the mark-up of H.R. 1085, the "NASA Flexibility Act of 2003" should be delayed until after the release of the Gehman report.

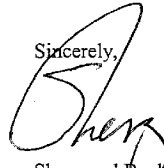
We have not yet scheduled Committee action on H.R. 1085, but I am not prepared to commit to delay the bill until after the Gehman report has been released. Admiral Gehman made clear at a meeting in my office, attended by several other Members, that his report would have little if anything to say about any of the issues raised by H.R. 1085.

The most the Gehman Board is likely to say about NASA personnel practices is that NASA needs to recruit and retain top-notch employees – the very goal of H.R. 1085. The intricacies of the federal government's hiring practices are beyond the ken of Admiral Gehman's panel.

In fact, given all the issues that the Gehman report is likely to bring to the fore, the Committee might be wiser to dispense with other NASA matters – such as personnel practices – before devoting itself fully to the issues in the Gehman report.

I will continue to consult with you as we decide how to move ahead with H.R. 1085, as will my staff, but I doubt that we will be able to acquiesce to the exceptionally lengthy delay you propose.

Sincerely,



Sherwood Boehlert  
Chairman

32-SC-1

**BART GORDON**  
9TH DISTRICT, TENNESSEE  
COMMITTEES:  
ENERGY AND COMMERCE  
SCIENCE  
RANKING MEMBER  
SUBCOMMITTEE:  
SPACE AND AERONAUTICS



**Congress of the United States**  
**House of Representatives**

June 2, 2003

2304 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-4206  
(202) 225-4231  
FAX: (202) 225-4887

108 SOUTH MAPLE STREET  
P.O. BOX 1085  
MURFREESBORO, TN 37133  
615/896-1698  
FAX: (615) 896-6218

18 SOUTH JEFFERSON STREET  
P.O. BOX 1340  
COOKVILLE, TN 38501  
(615) 528-5227

105 5TH AVENUE WEST  
SUITE D  
SPRINGFIELD, TN 37172

The Honorable Sherwood L. Boehlert  
Chairman  
House Committee on Science  
2320 Rayburn HOB  
Washington, D.C. 20515-0001

Dear Sherry:

Thank you for your response to the May 13<sup>th</sup> letter from 21 Science Committee members requesting a delay in consideration of H.R. 1085, the NASA Flexibility Act of 2003, until the Columbia Accident Investigation Board (CAIB) has reported its findings.

It is your privilege as Chairman to make decisions on when to consider legislation before the Committee, and I recognize that you have to balance input from many sides—the Administration, your Conference, and other Committee members—in arriving at a schedule. My experience has been that you fairly consider the views of all parties, and I welcome your offer to consult further with me on the ultimate disposition of H.R. 1085.

That being said, I must respectfully disagree with statements in you May 20<sup>th</sup> letter that speculate on potential findings by the CAIB. My recollection of the May 1<sup>st</sup> meeting with Admiral Gehman is that he indicated that the Board is actively examining workforce issues as part of its investigation and is likely to address them in its final report. That is consistent with earlier documentation provided to the Committee that identified workforce issues as a potential “root cause” of the accident that the CAIB would be investigating.

Without belaboring the point, I would again suggest that the Committee would have much to gain by deferring consideration of legislation that would modify NASA’s workforce rules until we have a more complete picture of the role that workforce issues may have played in the accident.

Sincerely,

BART GORDON  
Member of Congress

BJG/dp

Internet: <http://www.house.gov/gordon/>

Chairman ROHRABACHER. And all Members with opening remarks may place them into the record at this point and—or at any point in the future.

[The prepared statement of Mr. Feeney follows:]

PREPARED STATEMENT OF REPRESENTATIVE TOM FEENEY

I commend Chairman Boehlert and Chairman Rohrabacher for resolutely focusing on this issue and crafting a workable and needed solution.

NASA possesses an aging skilled workforce and a threatened loss of significant skills and knowledge. Four challenges must be faced: (1) retaining key personnel, (2) shaping a workforce responding to spaceflight's demanding and unique needs, (3) preserving and transferring institutional memory, and (4) recruiting new and energetic talent.

After careful study and patient negotiation, Chairman Boehlert and Committee staff have constructed a package of personnel management tools that can and should be used to assemble this required human capital. The time to act is now, not later. Delay and endless analysis are unacceptable options. Let's move forward.

[The prepared statement of Ms. Johnson follows:]

PREPARED STATEMENT OF REPRESENTATIVE EDDIE BERNICE JOHNSON

First, I would like to thank the Chair and Ranking Member for calling us together today to mark up this very important legislation.

The space exploration research program has been one of the most successful research programs in the history of this country. The Space Shuttle Program has yielded many lifesaving medical tests, accessibility advances for the physically challenged, and products that make our lives more safe and enjoyable.

Unfortunately the world has new evidence of the dangers associated with space exploration. Human space exploration is inherently risky. Distance, speed and an environment that cannot support human life combine to make human space flights particularly precarious.

I pledge to do what I can to help our space program recover from this terrible setback so these important endeavors can flourish in the future. As a Senior Member of the Science Committee and the Ranking Member of the Science Subcommittee on Basic Research, I will work closely with my House colleagues to assist NASA and Harold Gehman, Jr., who will lead the special investigative commission.

I am a firm believer that the United States will continue our space program that has accomplished so much in the areas of research and science. With two Americans and a Russian still stationed at the International Space Station, it is imperative that this program not come to a halt.

Chairman ROHRABACHER. And the bill is open for discussion.

Mr. Gordon.

Mr. GORDON. I don't mean to belabor this, but since Mr. Boehlert just came in, let me just quickly say that I think there was a good faith effort to try to move this bill. I am concerned that it has taken a different direction along the way. Although we had been given notification, we didn't get this bill until last night, so it is a little hard to be a partner when we don't get it until last night. And the previous one, we didn't get it until 72 hours before. And—

Chairman BOEHLERT. Would you yield just for one second?

Mr. GORDON. Yes, sir. Certainly.

Chairman BOEHLERT. I would like to point out that every step of the way you have had information exchanges. The final language, which is—should come as no surprise to anyone, was just put together yesterday, so you got it as I did, too. But I want to stress, Mr. Gordon, and I hope you will appreciate this, that we have worked Staff to Staff every step of the way. And we have high regard for your Professional Staff, and I know that regard, I think,

is mutual. And this is a committee where we work across the center aisle.

Mr. GORDON. Well, thank you, sir. And I also—let me compliment you on not including the industry exchange program. I think that was a wise decision. But I—and I did receive your letter concerning Admiral Gehman. It is one of the situations where I guess we heard things differently, and I will have my response to that as part of the record with unanimous consent.

And I also remind you that yesterday Admiral Gehman was quoted in the *New York Post* [sic, *Washington Post*] as saying that a “goodly portion of the report, perhaps half,” will deal with issues of management of NASA. Now in all fairness, clearly all of that wasn’t going to deal with this issue at point, but it would certainly seem that there would be something to be learned from this. Particularly this is a management-oriented board, so I don’t think that there would be any type of bad surprises for NASA. And as I had pointed out earlier, just—we are only going to have a chance to do this once, so we ought to do it right, and it just doesn’t seem reasonable not to wait 24—or one month until we get this information from Admiral Gehman.

And I would also point out that in the Senate, there was a bipartisan bill that passed 10 to 1 that worked out some of these other problems, as I had mentioned in my earlier statement, which I won’t reiterate right now.

But thank you, and in an effort to move forward, I will leave it at that.

Chairman ROHRABACHER. All right. So I ask for unanimous consent that the bill is considered—let me just say, as far as I am concerned, this is a good bill. It is needed. There is an honest disagreement on timing here. Sherry wants to get on with the job and get it done. And Mr. Gordon has made some points that I think are very reasonable points on the other side that we should wait until after the Gehman Report. But as I say, I respect the Chairman’s leadership and his decision to make sure that we move forward and try to get the job done. So with that, I ask unanimous consent that this bill is considered as read and open to amendment at any point and that amendments proceed in order of the roster. And without objection, so ordered.

*[Note: H.R. 1085 is located in the Appendix.]*

Chairman ROHRABACHER. The first amendment on the roster is an amendment in the nature of a substitute offered by Mr. Boehlert. I ask unanimous consent that the amendment in the nature of a substitute be treated as original text. Without objection, so ordered.

Mr. Boehlert, you—are you ready to proceed with your amendment?

Chairman BOEHLERT. Thank you, Mr. Chairman. And I will make this brief, and I will submit the full statement for the record, in its entirety, but just a couple of opening comments.

This amendment reflects extensive negotiations with NASA and, as Mr. Gordon so rightly observed, they wanted some things that we didn’t agree to, and we rejected them, and extensive negotiations with the Government Reform Committee, and with the unions that represent NASA employees. They must be considered. They

have a point of view. And we listened, and I am glad we did. These have been productive negotiations. This version of the bill is endorsed enthusiastically by the International Federation of Professional and Technical Engineers, the largest union at NASA. Labor and management have to work together to have success, and we are.

NASA, too, supports passage today, and we know of no concerns on the part of Chairman Davis from the Government Reform Committee. This version of the bill is also closer to the bill reported out of the Senate Government Affairs Committee on a bipartisan basis, so I am hopeful we will be able to get this bill to the President's desk early this fall. And let me point out that if we report this out, as I anticipate we will, in the Subcommittee, we will know more from Admiral Gehman and his people before the Full Committee acts. But I don't think this is a time for delay. I think we must move forward.

*[Note: The amendment is located in the Appendix.]*

Chairman ROHRABACHER. Thank you very much.

Is there any further discussion? If no, then thus all in favor, I would say, all in favor, say aye. All those opposed, say no. The ayes seem to have it. And the amendment is agreed to.

Let us see. The next amendment to the roster was supposed to be my amendment. And I have reached agreement with Chairman Boehlert to defer my—offering my amendment until the bill goes to Full Committee for consideration. And I have been assured that my amendment will be acceptable to, at least to offer at that time, and perhaps we can work out some of our minor differences that we have with the concept.

Chairman BOEHLERT. Mr. Chairman, if I may.

Chairman ROHRABACHER. Certainly.

Chairman BOEHLERT. And I would point out that the amendment you are referring to is scholarship for service, and that is an enlightened approach to a problem that has to be addressed. And I very much look forward to working with you to make sure we target it specifically, as is needed, to accomplish what we hope to accomplish. So there is no disagreement in principle. We are both enamored with the concept of scholarship for service to help these youngsters pay for their college education in return for a commitment to serve in the agency, and so I am confident we can work this out.

Chairman ROHRABACHER. Right. And there is a commitment on both sides of the aisle and from both Chairmen to make sure that gets done.

Are there any—and so I am withdrawing my amendment.

Are there any further amendments? Hearing none, the question is on the bill, H.R. 1085, the NASA Flexibility Act of 2003, as amended. All those in favor, say aye. All those opposed, say no. In the opinion of the Chair, the ayes have it.

I will now recognize Mr. Boehlert to offer a motion.

Chairman BOEHLERT. Mr. Chairman, I move that the Subcommittee favorably report H.R. 1085, as amended, to the Full Committee. Furthermore, I ask unanimous consent that the Staff be instructed to make all necessary technical and conforming



changes to the bill, as—well, to the bill, in accordance with the recommendations of the Subcommittee.

Chairman ROHRABACHER. The Chair notes the presence of a quorum. The question is on the motion to report the bill favorably to Full Committee. Those in favor for the motion, signify by saying aye. Those opposed. The ayes appear to have it. The bill is favorably reported. Without objection, the motion to reconsider is laid upon the table.

Thank you very much.

And this concludes our Committee markup. And without any objection, we will declare this committee adjourned. So I do declare this committee meeting adjourned.

[Whereupon, at 11:25 a.m., the Subcommittee was adjourned.]



## Appendix

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ROSTER, AMENDMENT, H.R. 1085, SECTION-BY-SECTION ANALYSIS,  
AND SUMMARY OF H.R. 1085

**COMMITTEE ON SCIENCE  
SUBCOMMITTEE ON SPACE & AERONAUTICS**

June 26, 2003

**AMENDMENT ROSTER**

**H.R. 1085, NASA Flexibility Act of 2003**

<b>No.</b>	<b>Sponsor</b>	<b>Description</b>	<b>Suggested Vote</b>
1	Mr. Boehlert	Amendment in the nature of a substitute to HR 1085	Adopted by Voice Vote

**AMENDMENT IN THE NATURE OF A SUBSTITUTE  
TO H.R. 1085  
OFFERED BY MR. BOEHLERT**

Strike all after the enacting clause and insert the following:

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the "NASA Flexibility Act  
3 of 2003".

4 **SEC. 2. COMPENSATION FOR CERTAIN EXCEPTED PER-**  
5 **SONNEL.**

6 (a) **IN GENERAL.**—Subparagraph (A) of section  
7 203(c)(2) of the National Aeronautics and Space Act of  
8 1958 (42 U.S.C. 2473(c)(2)(A)) is amended by striking  
9 "the highest rate of grade 18 of the General Schedule of  
10 the Classification Act of 1949, as amended," and inserting  
11 "the rate of basic pay payable for level III of the Executive  
12 Schedule,".

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

17 **SEC. 3. WORKFORCE AUTHORITIES.**

18 (a) **IN GENERAL.**—Subpart I of part III of title 5,  
19 United States Code, is amended by inserting after chapter



1 97, as added by section 841(a)(2) of the Homeland Secu-  
2 rity Act of 2002 (Public Law 107-296; 116 Stat. 2229),  
3 the following:

4 **“CHAPTER 98—NATIONAL AERONAUTICS**  
5 **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. Enhanced demonstration project authority.
- “9810. Voluntary separation incentive payments.
- “9811. Science and technology scholarship program.
- “9812. Distinguished scholar appointment authority.
- “9813. Travel and transportation expenses of certain new appointees.
- “9814. Annual leave enhancements.
- “9815. Limited appointments to Senior Executive Service positions.
- “9816. Qualifications pay.
- “9817. Reporting requirement.

6 **“§ 9801. Definitions**

7 “For purposes of this chapter—

8 “(1) the term ‘Administration’ means the Na-  
9 tional Aeronautics and Space Administration;

10 “(2) the term ‘Administrator’ means the Ad-  
11 ministrator of the National Aeronautics and Space  
12 Administration;

13 “(3) the term ‘critical need’ means a specific  
14 and important requirement of the Administration’s  
15 mission that the Administration is unable to fulfill  
16 because the Administration lacks the appropriate  
17 employees because—



1                   “(A) of the inability to fill positions; or

2                   “(B) employees do not possess the req-  
3                   uisite skills;

4                   “(4) the term ‘employee’ means an individual  
5                   employed in or under the Administration;

6                   “(5) the term ‘workforce plan’ means the plan  
7                   required under section 9802(a);

8                   “(6) the term ‘appropriate committees of Con-  
9                   gress’ means—

10                   “(A) the Committees on Government Re-  
11                   form, Science, and Appropriations of the House  
12                   of Representatives; and

13                   “(B) the Committees on Governmental Af-  
14                   fairs, Commerce, Science, and Transportation,  
15                   and Appropriations of the Senate;

16                   “(7) the term ‘redesignation bonus’ means a  
17                   bonus under section 9804 paid to an individual de-  
18                   scribed in subsection (a)(2) thereof;

19                   “(8) the term ‘supervisor’ has the meaning  
20                   given such term by section 7103(a)(10); and

21                   “(9) the term ‘management official’ has the  
22                   meaning given such term by section 7103(a)(11).



1 **“§ 9802. Planning, notification, and reporting require-**  
2 **ments**

3 “(a) Not later than 90 days before exercising any of  
4 the workforce authorities made available under this chap-  
5 ter, the Administrator shall submit a written plan to the  
6 appropriate committees of Congress. Such plan shall be  
7 developed in consultation with the Office of Personnel  
8 Management.

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

10 “(1) each critical need of the Administration  
11 and the criteria used in the identification of that  
12 need;

13 “(2)(A) the functions, approximate number,  
14 and classes or other categories of positions or em-  
15 ployees that—

16 “(i) address critical needs; and

17 “(ii) would be eligible for each authority  
18 proposed to be exercised under section 9803;  
19 and

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

24 “(3)(A) any critical need identified under para-  
25 graph (1) which would not be addressed by the au-  
26 thorities made available under this chapter; and





1           “(B) the reasons why those needs would not be  
2           so addressed;

3           “(4) the specific criteria to be used in deter-  
4           mining which individuals may receive the benefits  
5           described under sections 9804, 9805 (including the  
6           criteria for granting bonuses in the absence of a  
7           critical need), and 9810, and how the level of those  
8           benefits will be determined;

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

12          “(6) the means by which employees will be af-  
13          forded the notification required under subsections  
14          (e) and (d)(1)(B);

15          “(7) the methods that will be used to determine  
16          if the authorities exercised under this chapter have  
17          successfully addressed each critical need identified  
18          under paragraph (1); and

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

22          “(B) the changes the Administration will imple-  
23          ment after the enactment of this chapter in order to  
24          improve its recruitment of highly qualified individ-  
25          uals, including how it intends to use—



1                   “(i) nongovernmental recruitment or place-  
2                   ment agencies; and

3                   “(ii) Internet technologies.

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

9                   “(d)(1)(A) The Administrator may from time to time  
10 modify the workforce plan. Not later than 90 days before  
11 implementing any such modifications, the Administrator  
12 shall submit a description of the proposed modifications  
13 to the appropriate committees of Congress.

14                   “(B) Not later than 60 days before implementing any  
15 such modifications, the Administrator shall provide an ap-  
16 propriately modified plan to all employees of the Adminis-  
17 tration and to the appropriate committees of Congress.

18                   “(2) Any reference in this chapter or any other provi-  
19 sion of law to the workforce plan shall be considered to  
20 include any modification made in accordance with this  
21 subsection.

22                   “(e) Before submitting any written plan under sub-  
23 section (a) (or modification under subsection (d)) to the  
24 appropriate committees of Congress, the Administrator  
25 shall—



1           “(1) provide to each employee representative  
2           representing any employees who might be affected  
3           by such plan (or modification) a copy of the pro-  
4           posed plan (or modification);

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

9           “(3) give any recommendations received from  
10          any such representatives under paragraph (2) full  
11          and fair consideration in deciding whether or how to  
12          proceed with respect to the proposed plan (or modi-  
13          fication).

14          “(f) None of the workforce authorities made available  
15          under this chapter may be exercised in a manner incon-  
16          sistent with the workforce plan.

17          “(g) Whenever the Administration submits its per-  
18          formance plan under section 1115 of title 31 to the Office  
19          of Management and Budget for any year, the Administra-  
20          tion shall at the same time submit a copy of such plan  
21          to the appropriate committees of Congress.

22          “(h) Not later than 6 years after the date of enact-  
23          ment of this chapter, the Administrator shall submit to  
24          the appropriate committees of Congress an evaluation and



1 analysis of the actions taken by the Administration under  
2 this chapter, including—

3           “(1) an evaluation, using the methods described  
4           in subsection (b)(7), of whether the authorities exer-  
5           cised under this chapter successfully addressed each  
6           critical need identified under subsection (b)(1);

7           “(2) to the extent that they did not, an expla-  
8           nation of the reasons why any critical need (apart  
9           from the ones under subsection (b)(3)) was not suc-  
10          cessfully addressed; and

11          “(3) recommendations for how the Administra-  
12          tion could address any remaining critical need and  
13          could prevent those that have been addressed from  
14          recurring.

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

20 **“§ 9803. Restrictions**

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



1 “(b) Unless specifically stated otherwise, all work-  
2 force authorities made available under this chapter shall  
3 be subject to section 5307.

4 **“§ 9804. Recruitment, redesignation, and relocation**  
5 **bonuses**

6 “(a) Notwithstanding section 5753, the Adminis-  
7 trator may pay a bonus to an individual, in accordance  
8 with the workforce plan and subject to the limitations in  
9 this section, if—

10 “(1) the Administrator determines that the Ad-  
11 ministration would be likely, in the absence of a  
12 bonus, to encounter difficulty in filling a position;  
13 and

14 “(2) the individual—

15 “(A) is newly appointed as an employee of  
16 the Federal Government;

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

20 “(C) is currently employed by the Federal  
21 Government and is required to relocate to a dif-  
22 ferent geographic area to accept a position with  
23 the Administration.



1 “(b) If the position is described as addressing a crit-  
2 ical need in the workforce plan under section  
3 9802(b)(2)(A), the amount of a bonus may not exceed—

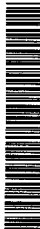
4 “(1) 50 percent of the employee’s annual rate  
5 of basic pay (including comparability payments  
6 under sections 5304 and 5304a) as of the beginning  
7 of the service period multiplied by the service period  
8 specified under subsection (d)(1)(B)(i); or

9 “(2) 100 percent of the employee’s annual rate  
10 of basic pay (including comparability payments  
11 under sections 5304 and 5304a) as of the beginning  
12 of the service period.

13 “(c) If the position is not described as addressing a  
14 critical need in the workforce plan under section  
15 9802(b)(2)(A), the amount of a bonus may not exceed—

16 “(1) 25 percent of the employee’s annual rate  
17 of basic pay (including comparability payments  
18 under sections 5304 and 5304a) as of the beginning  
19 of the service period multiplied by the service period  
20 specified under subsection (d)(1)(B)(i); or

21 “(2) 100 percent of the employee’s annual rate  
22 of basic pay (including comparability payments  
23 under sections 5304 and 5304a) as of the beginning  
24 of the service period.



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

4 “(B) At a minimum, the service agreement shall  
5 include—

6 “(i) the required service period;

7 “(ii) the method of payment, including a pay-  
8 ment schedule, which may include a lump-sum pay-  
9 ment, installment payments, or a combination there-  
10 of;

11 “(iii) the amount of the bonus and the basis for  
12 calculating that amount; and

13 “(iv) the conditions under which the agreement  
14 may be terminated before the agreed-upon service  
15 period has been completed, and the effect of the ter-  
16 mination.

17 “(2) For purposes of determinations under sub-  
18 sections (b)(1) and (e)(1), the employee’s service period  
19 shall be expressed as the number equal to the full years  
20 and twelfth parts thereof, rounding the fractional part of  
21 a month to the nearest twelfth part of a year. The service  
22 period may not be less than 6 months and may not exceed  
23 4 years.

24 “(3) A bonus under this section may not be consid-  
25 ered to be part of the basic pay of an employee.



1 “(e) Before paying a bonus under this section, the  
2 Administration shall establish a plan for paying recruit-  
3 ment, redesignation, and relocation bonuses, subject to ap-  
4 proval by the Office of Personnel Management.

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

8 **“§ 9805. Retention bonuses**

9 “(a) Notwithstanding section 5754, the Adminis-  
10 trator may pay a bonus to an employee, in accordance with  
11 the workforce plan and subject to the limitations in this  
12 section, if the Administrator determines that—

13 “(1) the unusually high or unique qualifications  
14 of the employee or a special need of the Administra-  
15 tion for the employee’s services makes it essential to  
16 retain the employee; and

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

19 “(b) If the position is described as addressing a crit-  
20 ical need in the workforce plan under section  
21 9802(b)(2)(A), the amount of a bonus may not exceed 50  
22 percent of the employee’s annual rate of basic pay (includ-  
23 ing comparability payments under sections 5304 and  
24 5304a).





1       “(c) If the position is not described as addressing a  
2 critical need in the workforce plan under section  
3 9802(b)(2)(A), the amount of a bonus may not exceed 25  
4 percent of the employee’s annual rate of basic pay (includ-  
5 ing comparability payments under sections 5304 and  
6 5304a).

7       “(d)(1)(A) Payment of a bonus under this section  
8 shall be contingent upon the employee entering into a serv-  
9 ice agreement with the Administration.

10       “(B) At a minimum, the service agreement shall  
11 include—

12           “(i) the required service period;

13           “(ii) the method of payment, including a pay-  
14 ment schedule, which may include a lump-sum pay-  
15 ment, installment payments, or a combination there-  
16 of;

17           “(iii) the amount of the bonus and the basis for  
18 calculating the amount; and

19           “(iv) the conditions under which the agreement  
20 may be terminated before the agreed-upon service  
21 period has been completed, and the effect of the ter-  
22 mination.

23       “(2) The employee’s service period shall be expressed  
24 as the number equal to the full years and twelfth parts  
25 thereof, rounding the fractional part of a month to the



1 nearest twelfth part of a year. The service period may not  
2 be less than 6 months and may not exceed 4 years.

3 “(3) Notwithstanding paragraph (1), a service agree-  
4 ment is not required if the Administration pays a bonus  
5 in biweekly installments and sets the installment payment  
6 at the full bonus percentage rate established for the em-  
7 ployee, with no portion of the bonus deferred. In this case,  
8 the Administration shall inform the employee in writing  
9 of any decision to change the retention bonus payments.  
10 The employee shall continue to accrue entitlement to the  
11 retention bonus through the end of the pay period in which  
12 such written notice is provided.

13 “(c) A bonus under this section may not be consid-  
14 ered to be part of the basic pay of an employee.

15 “(f) An employee is not entitled to a retention bonus  
16 under this section during a service period previously estab-  
17 lished for that employee under section 5753 or under sec-  
18 tion 9804.

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

22 **“§ 9806. Term appointments**

23 “(a) The Administrator may authorize term appoint-  
24 ments within the Administration under subchapter I of



1 chapter 33, for a period of not less than 1 year and not  
2 more than 6 years.

3 “(b) Notwithstanding chapter 33 or any other provi-  
4 sion of law relating to the examination, certification, and  
5 appointment of individuals in the competitive service, the  
6 Administrator may convert an employee serving under a  
7 term appointment to a permanent appointment in the  
8 competitive service within the Administration without fur-  
9 ther competition if—

10 “(1) such individual was appointed under open,  
11 competitive examination under subchapter I of chap-  
12 ter 33 to the term position;

13 “(2) the announcement for the term appoint-  
14 ment from which the conversion is made stated that  
15 there was potential for subsequent conversion to a  
16 career-conditional or career appointment;

17 “(3) the employee has completed at least 2  
18 years of current continuous service under a term ap-  
19 pointment in the competitive service;

20 “(4) the employee’s performance under such  
21 term appointment was at least fully successful or  
22 equivalent; and

23 “(5) the position to which such employee is  
24 being converted under this section is in the same oc-  
25 cupational series, is in the same geographic location,



1 and provides no greater promotion potential than  
2 the term position for which the competitive examina-  
3 tion was conducted.

4 “(e) Notwithstanding chapter 33 or any other provi-  
5 sion of law relating to the examination, certification, and  
6 appointment of individuals in the competitive service, the  
7 Administrator may convert an employee serving under a  
8 term appointment to a permanent appointment in the  
9 competitive service within the Administration through in-  
10 ternal competitive promotion procedures if the conditions  
11 under paragraphs (1) through (4) of subsection (b) are  
12 met.

13 “(d) An employee converted under this section be-  
14 comes a career-conditional employee, unless the employee  
15 has otherwise completed the service requirements for ca-  
16 reer tenure.

17 “(e) An employee converted to career or career-condi-  
18 tional employment under this section acquires competitive  
19 status upon conversion.

20 **“§ 9807. Pay authority for critical positions**

21 “(a) In this section, the term ‘position’ means—

22 “(1) a position to which chapter 51 applies, in-  
23 cluding a position in the Senior Executive Service;

24 “(2) a position under the Executive Schedule  
25 under sections 5312 through 5317;



1 “(3) a position established under section 3104;

2 or

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

5 “(b) Authority under this section—

6 “(1) may be exercised only with respect to a po-  
7 sition that—

8 “(A) is described as addressing a critical  
9 need in the workforce plan under section  
10 9802(b)(2)(A); and

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

14 “(2) may be exercised only to the extent nec-  
15 essary to recruit or retain an individual exceptionally  
16 well qualified for the position; and

17 “(3) may be exercised only in retaining employ-  
18 ees of the Administration or in appointing individ-  
19 uals who were not employees of another Federal  
20 agency as defined under section 5102(a)(1).

21 “(c)(1) Notwithstanding section 5377, the Adminis-  
22 trator may fix the rate of basic pay for a position in the  
23 Administration in accordance with this section. The Ad-  
24 ministrator may not delegate this authority.



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

3       “(d)(1) The rate of basic pay fixed under this section  
4 may not be less than the rate of basic pay (including any  
5 comparability payments) which would otherwise be pay-  
6 able for the position involved if this section had never been  
7 enacted.

8       “(2) The annual rate of basic pay fixed under this  
9 section may not exceed the per annum rate of salary pay-  
10 able under section 104 of title 3.

11       “(3) Notwithstanding any provision of section 5307,  
12 in the case of an employee who, during any calendar year,  
13 is receiving pay at a rate fixed under this section, no allow-  
14 ance, differential, bonus, award, or similar cash payment  
15 may be paid to such employee if, or to the extent that,  
16 when added to basic pay paid or payable to such employee  
17 (for service performed in such calendar year as an em-  
18 ployee in the executive branch or as an employee outside  
19 the executive branch to whom chapter 51 applies), such  
20 payment would cause the total to exceed the per annum  
21 rate of salary which, as of the end of such calendar year,  
22 is payable under section 104 of title 3.

23       **“§ 9808. Assignments of intergovernmental personnel**

24       “For purposes of applying the third sentence of sec-  
25 tion 3372(a) (relating to the authority of the head of a



1 Federal agency to extend the period of an employee's as-  
 2 signment to or from a State or local government, institu-  
 3 tion of higher education, or other organization), the Ad-  
 4 ministrator may, with the concurrence of the employee and  
 5 the government or organization concerned, take any action  
 6 which would be allowable if such sentence had been  
 7 amended by striking 'two' and inserting 'four'.

8 **"§ 9809. Enhanced demonstration project authority**

9 "When conducting a demonstration project at the Ad-  
 10 ministration, section 4703(d)(1)(A) may be applied by  
 11 substituting '8,000' for '5,000'.

12 **"§ 9810. Voluntary separation incentive payments**

13 "(a) In applying subchapter II of chapter 35, the Ad-  
 14 ministrator may provide for voluntary separation incentive  
 15 payments in excess of the dollar-amount limitation that  
 16 would otherwise apply under section 3523(b)(3)(B), sub-  
 17 ject to subsection (b).

18 "(b) Voluntary separation incentive payments de-  
 19 scribed in subsection (a)—

20 "(1) may not exceed 50 percent of the annual  
 21 rate of basic pay of the employee receiving such pay-  
 22 ments (computed disregarding any comparability  
 23 payments under sections 5304–5304a);

24 "(2) may not, in any calendar year, be made to  
 25 more than—



1           “(A) 10 employees; or

2           “(B) such greater number of employees as  
3           the Administrator may, with the approval of the  
4           Office of Management and Budget, establish in  
5           lieu of the number specified in subparagraph  
6           (A) following notification to the appropriate  
7           committees of Congress; and

8           “(3) may not be made to an employee if the  
9           employee has within the last 12 months received, or  
10          if the employee is then receiving, a bonus or allow-  
11          ance under section 5753 or 5754 or under section  
12          9804 or 9805.

13          “(c)(1) The proposed use of any workforce authori-  
14          ties provided under this section shall be included in the  
15          plan required by section 3522.

16          “(2) Whenever the Office of Personnel Management  
17          approves the Administration’s plan required in such sec-  
18          tion 3522, the Administration shall submit a copy of the  
19          approved plan to the appropriate committees of Congress  
20          within 15 days after the date on which it is so approved.

21          “§9811. Science and technology scholarship program

22          “(a)(1) The Administrator shall establish a National  
23          Aeronautics and Space Administration Science and Tech-  
24          nology Scholarship Program to award scholarships to indi-





1 viduals that is designed to recruit and prepare students  
2 for careers in the Administration.

3 “(2) Individuals shall be selected to receive scholar-  
4 ships under this section through a competitive process pri-  
5 marily on the basis of academic merit, with consideration  
6 given to financial need and the goal of promoting the par-  
7 ticipation of individuals identified in section 33 or 34 of  
8 the Science and Engineering Equal Opportunities Act.

9 “(3) To carry out the Program the Administrator  
10 shall enter into contractual agreements with individuals  
11 selected under paragraph (2) under which the individuals  
12 agree to serve as full-time employees of the Administra-  
13 tion, for the period described in subsection (f)(1), in posi-  
14 tions needed by the Administration and for which the indi-  
15 viduals are qualified, in exchange for receiving a scholar-  
16 ship.

17 “(b) In order to be eligible to participate in the Pro-  
18 gram, an individual must—

19 “(1) be enrolled or accepted for enrollment as  
20 a full-time student at an institution of higher edu-  
21 cation in an academic field or discipline described in  
22 the list made available under subsection (d);

23 “(2) be a United States citizen; and



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

4           “(c) An individual seeking a scholarship under this  
5           section shall submit an application to the Administrator  
6           at such time, in such manner, and containing such infor-  
7           mation, agreements, or assurances as the Administrator  
8           may require.

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

13          “(e)(1) The Administrator may provide a scholarship  
14          under the Program for an academic year if the individual  
15          applying for the scholarship has submitted to the Adminis-  
16          trator, as part of the application required under sub-  
17          section (e), a proposed academic program leading to a de-  
18          gree in a program or field of study on the list made avail-  
19          able under subsection (d).

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

23          “(3) The dollar amount of a scholarship under this  
24          section for an academic year shall be determined under



1 regulations issued by the Administrator, but shall in no  
2 case exceed the cost of attendance.

3 “(4) A scholarship provided under this section may  
4 be expended for tuition, fees, and other authorized ex-  
5 penses as established by the Administrator by regulation.

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

12 “(f)(1) The period of service for which an individual  
13 shall be obligated to serve as an employee of the Adminis-  
14 tration is, except as provided in subsection (h)(2), 24  
15 months for each academic year for which a scholarship  
16 under this section is provided.

17 “(2)(A) Except as provided in subparagraph (B), ob-  
18 ligated service under paragraph (1) shall begin not later  
19 than 60 days after the individual obtains the educational  
20 degree for which the scholarship was provided.

21 “(B) The Administrator may defer the obligation of  
22 an individual to provide a period of service under para-  
23 graph (1) if the Administrator determines that such a de-  
24 ferral is appropriate. The Administrator shall prescribe



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

3 “(g)(1) Scholarship recipients who fail to maintain  
4 a high level of academic standing, as defined by the Ad-  
5 ministrator by regulation, who are dismissed from their  
6 educational institutions for disciplinary reasons, or who  
7 voluntarily terminate academic training before graduation  
8 from the educational program for which the scholarship  
9 was awarded, shall be in breach of their contractual agree-  
10 ment and, in lieu of any service obligation arising under  
11 such agreement, shall be liable to the United States for  
12 repayment within 1 year after the date of default of all  
13 scholarship funds paid to them and to the institution of  
14 higher education on their behalf under the agreement, ex-  
15 cept as provided in subsection (h)(2). The repayment pe-  
16 riod may be extended by the Administrator when deter-  
17 mined to be necessary, as established by regulation.

18 “(2) Scholarship recipients who, for any reason, fail  
19 to begin or complete their service obligation after comple-  
20 tion of academic training, or fail to comply with the terms  
21 and conditions of deferment established by the Adminis-  
22 trator pursuant to subsection (f)(2)(B), shall be in breach  
23 of their contractual agreement. When recipients breach  
24 their agreements for the reasons stated in the preceding



1 sentence, the recipient shall be liable to the United States  
2 for an amount equal to—

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

5           “(B) the interest on the amounts of such  
6           awards which would be payable if at the time the  
7           awards were received they were loans bearing inter-  
8           est at the maximum legal prevailing rate, as deter-  
9           mined by the Treasurer of the United States,

10 multiplied by 3.

11           “(h)(1) Any obligation of an individual incurred  
12           under the Program (or a contractual agreement there-  
13           under) for service or payment shall be canceled upon the  
14           death of the individual.

15           “(2) The Administrator shall by regulation provide  
16           for the partial or total waiver or suspension of any obliga-  
17           tion of service or payment incurred by an individual under  
18           the Program (or a contractual agreement thereunder)  
19           whenever compliance by the individual is impossible or  
20           would involve extreme hardship to the individual, or if en-  
21           forcement of such obligation with respect to the individual  
22           would be contrary to the best interests of the Government.

23           “(i) For purposes of this section—



1           “(1) the term ‘cost of attendance’ has the  
2 meaning given that term in section 472 of the High-  
3 er Education Act of 1965;

4           “(2) the term ‘institution of higher education’  
5 has the meaning given that term in section 101(a)  
6 of the Higher Education Act of 1965; and

7           “(3) the term ‘Program’ means the National  
8 Aeronautics and Space Administration Science and  
9 Technology Scholarship Program established under  
10 this section.

11          “(j)(1) There is authorized to be appropriated to the  
12 Administration for the Program \$10,000,000 for each fis-  
13 cal year.

14          “(2) Amounts appropriated under this section shall  
15 remain available for 2 fiscal years.

16 **“§ 9812. Distinguished scholar appointment authority**

17          “(a) In this section—

18               “(1) the term ‘professional position’ means a  
19 position that is classified to an occupational series  
20 identified by the Office of Personnel Management as  
21 a position that—

22                       “(A) requires education and training in the  
23 principles, concepts, and theories of the occupa-  
24 tion that typically can be gained only through



1 completion of a specified curriculum at a recog-  
2 nized college or university; and

3 “(B) is covered by the Group Coverage  
4 Qualification Standard for Professional and Sci-  
5 entific Positions; and

6 “(2) the term ‘research position’ means a posi-  
7 tion in a professional series that primarily involves  
8 scientific inquiry or investigation, or research-type  
9 exploratory development of a creative or scientific  
10 nature, where the knowledge required to perform the  
11 work successfully is acquired typically and primarily  
12 through graduate study.

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

20 “(1) with respect to a position at the GS-7  
21 level, the individual—

22 “(A) received, within 2 years before the ef-  
23 fective date of the appointment, from an ac-  
24 credited institution authorized to grant bacca-  
25 laureate degrees, a baccalaureate degree in a



1 field of study for which possession of that de-  
 2 gree in conjunction with academic achievements  
 3 meets the qualification standards as prescribed  
 4 by the Office of Personnel Management for the  
 5 position to which the individual is being ap-  
 6 pointed; and

7 “(B) achieved a cumulative grade point av-  
 8 erage of 3.0 or higher on a 4.0 scale and a  
 9 grade point average of 3.5 or higher for courses  
 10 in the field of study required to qualify for the  
 11 position;

12 “(2) with respect to a position at the GS-9  
 13 level, the individual—

14 “(A) received, within 2 years before the ef-  
 15 fective date of the appointment, from an ac-  
 16 credited institution authorized to grant grad-  
 17 uate degrees, a graduate degree in a field of  
 18 study for which possession of that degree meets  
 19 the qualification standards at this grade level as  
 20 prescribed by the Office of Personnel Manage-  
 21 ment for the position to which the individual is  
 22 being appointed; and

23 “(B) achieved a cumulative grade point av-  
 24 erage of 3.5 or higher on a 4.0 scale in grad-





1 uate coursework in the field of study required  
2 for the position;

3 “(3) with respect to a position at the GS-11  
4 level, the individual—

5 “(A) received, within 2 years before the ef-  
6 fective date of the appointment, from an ac-  
7 credited institution authorized to grant grad-  
8 uate degrees, a graduate degree in a field of  
9 study for which possession of that degree meets  
10 the qualification standards at this grade level as  
11 prescribed by the Office of Personnel Manage-  
12 ment for the position to which the individual is  
13 being appointed; and

14 “(B) achieved a cumulative grade point av-  
15 erage of 3.5 or higher on a 4.0 scale in grad-  
16 uate coursework in the field of study required  
17 for the position; or

18 “(4) with respect to a research position at the  
19 GS-12 level, the individual—

20 “(A) received, within 2 years before the ef-  
21 fective date of the appointment, from an ac-  
22 credited institution authorized to grant grad-  
23 uate degrees, a graduate degree in a field of  
24 study for which possession of that degree meets  
25 the qualification standards at this grade level as



1 prescribed by the Office of Personnel Manage-  
2 ment for the position to which the individual is  
3 being appointed; and

4 “(B) achieved a cumulative grade point av-  
5 erage of 3.5 or higher on a 4.0 scale in grad-  
6 uate coursework in the field of study required  
7 for the position.

8 “(c) In making any selections under this section,  
9 preference eligibles who meet the criteria for distinguished  
10 scholar appointments shall be considered ahead of non-  
11 preference eligibles.

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

15 **“§ 9813. Travel and transportation expenses of cer-  
16 tain new appointees**

17 “(a) In this section, the term ‘new appointee’  
18 means—

19 “(1) a person newly appointed or reinstated to  
20 Federal service to the Administration to—

21 “(A) a career or career-conditional ap-  
22 pointment;

23 “(B) a term appointment;



1 “(C) an excepted service appointment that  
2 provides for noncompetitive conversion to a ca-  
3 reer or career-conditional appointment;

4 “(D) a career or limited term Senior Exec-  
5 utive Service appointment;

6 “(E) an appointment made under section  
7 203(c)(2)(A) of the National Aeronautics and  
8 Space Act of 1958 (42 U.S.C. 2473(e)(2)(A));

9 “(F) an appointment to a position estab-  
10 lished under section 3104; or

11 “(G) an appointment to a position estab-  
12 lished under section 5108; or

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

17 “(b) The Administrator may pay the travel, transpor-  
18 tation, and relocation expenses of a new appointee to the  
19 same extent, in the same manner, and subject to the same  
20 conditions as the payment of such expenses under sections  
21 5724, 5724a, 5724b, and 5724c to an employee trans-  
22 ferred in the interests of the United States Government.

23 **“§ 9814. Annual leave enhancements**

24 “(a)(1) In this subsection—



1           “(A) the term ‘newly appointed employee’  
2 means an individual who is first appointed—  
3           “(i) as an employee of the Federal Govern-  
4 ment; or  
5           “(ii) as an employee of the Federal Gov-  
6 ernment following a break in service of at least  
7 90 days after that individual’s last period of  
8 Federal employment, other than—  
9           “(I) employment under the Student  
10 Educational Employment Program admin-  
11 istered by the Office of Personnel Manage-  
12 ment;  
13           “(II) employment as a law clerk train-  
14 ee;  
15           “(III) employment under a short-term  
16 temporary appointing authority while a  
17 student during periods of vacation from  
18 the educational institution at which the  
19 student is enrolled;  
20           “(IV) employment under a provisional  
21 appointment if the new appointment is per-  
22 manent and immediately follows the provi-  
23 sional appointment; or



1                   “(V) employment under a temporary  
2                   appointment that is neither full-time nor  
3                   the principal employment of the individual;

4                   “(B) the term ‘period of qualified non-Federal  
5                   service’ means any period of service performed by an  
6                   individual that—

7                   “(i) was performed in a position the duties  
8                   of which were directly related to the duties of  
9                   the position in the Administration which that  
10                  individual will fill as a newly appointed em-  
11                  ployee; and

12                  “(ii) except for this section, would not oth-  
13                  erwise be service performed by an employee for  
14                  purposes of section 6303; and

15                  “(C) the term ‘directly related to the duties of  
16                  the position’ means duties and responsibilities in the  
17                  same line of work which require similar qualifica-  
18                  tions.

19                  “(2)(A) For purposes of section 6303, the Adminis-  
20                  trator may deem a period of qualified non-Federal service  
21                  performed by a newly appointed employee to be a period  
22                  of service of equal length performed as an employee.

23                  “(B) A decision under subparagraph (A) to treat a  
24                  period of qualified non-Federal service as if it were service



1 performed as an employee shall continue to apply so long  
2 as that individual serves in or under the Administration.

3 “(3)(A) Notwithstanding section 6303(a), the annual  
4 leave accrual rate for an employee of the Administration  
5 in a position paid under section 5376 or 5383, or for an  
6 employee in an equivalent category whose rate of basic pay  
7 is greater than the rate payable at GS-15, step 10, shall  
8 be 1 day for each full biweekly pay period.

9 “(B) The accrual rate established under this para-  
10 graph shall continue to apply to the employee so long as  
11 such employee serves in or under the Administration.

12 **“§9815. Limited appointments to Senior Executive**  
13 **Service positions**

14 “(a) In this section, the terms ‘career reserved posi-  
15 tion’, ‘Senior Executive Service position’, ‘senior executive’  
16 and ‘career appointee’ have the meanings set forth in sec-  
17 tion 3132(a).

18 “(b) Subject to succeeding provisions of this section,  
19 the Administrator may, notwithstanding any other provi-  
20 sion of this title, fill a career reserved position on a tem-  
21 porary basis, but only if—

22 “(1) such position is vacant as a result of—

23 “(A) the separation of the incumbent; or



1           “(B) the temporary absence of the incum-  
2           bent due to illness, training, or reassignment;  
3           or

4           “(2) such position is or would be difficult to fill  
5           in any other manner due to the fact that such posi-  
6           tion is likely to be eliminated within the next 2  
7           years.

8           “(c) Notwithstanding sections 3132 and 3394(b), an  
9           appointment made by the Administrator under subsection  
10          (b) shall not exceed 2 years.

11          “(d) The Administrator may extend an appointment  
12          under subsection (b) for as long as necessary to meet a  
13          contingency described in subsection (b)(1), but for not to  
14          exceed 1 year and not if the circumstance described in  
15          subsection (b)(2) pertains.

16          “(e) The number of career reserved positions filled  
17          under subsection (b) may not at any time exceed 10 per-  
18          cent of the total number of Senior Executive Service posi-  
19          tions then authorized for the Administration under section  
20          3133.

21          “(f) An individual appointed to a career reserved po-  
22          sition on a temporary basis under subsection (b) shall, if  
23          such individual was so appointed from a civil service posi-  
24          tion held under a career or career-conditional appoint-  
25          ment, be entitled, upon completion of that temporary ap-



1 pointment, to be reemployed in the position from which  
2 such individual was so appointed (or an equivalent posi-  
3 tion), in accordance with such regulations as the Office  
4 of Personnel Management may prescribe.

5 “(g) An appointment to a career reserved position on  
6 a temporary basis under subsection (b) may not be made  
7 without the prior approval of the Office of Personnel Man-  
8 agement if the individual—

9 “(1) is to be appointed—

10 “(A) from outside the Federal Govern-  
11 ment; or

12 “(B) from a civil service position held  
13 under an appointment other than a career or  
14 career-conditional appointment; or

15 “(2) is a senior executive, but not a career ap-  
16 pointee.

17 “(h) An individual appointed to a career reserved po-  
18 sition on a temporary basis under subsection (b) who is  
19 not a career appointee shall, for purposes of performance  
20 awards under section 5384, be treated as a career ap-  
21 pointee.

22 **“§ 9816. Qualifications pay**

23 “(a) Notwithstanding section 5334, the Adminis-  
24 trator may set the pay of an employee paid under the Gen-





1 eral Schedule at any step within the pay range for the  
2 grade of the position, if such employee—

3 “(1) possesses unusually high or unique quali-  
4 fications; and

5 “(2) is assigned—

6 “(A) new duties, without a change of posi-  
7 tion; or

8 “(B) to a new position.

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

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

17 “(d) If the employee serves for at least 1 year in the  
18 position for which the pay determination under this sec-  
19 tion was made, or a successor position, the pay earned  
20 under such position may be used in succeeding actions to  
21 set pay under chapter 53.

22 “(e) Before setting any employee’s pay under this  
23 section, the Administrator shall submit a plan to the Of-  
24 fice of Personnel Management and the appropriate com-  
25 mittees of Congress, that includes—



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

3           “(2) the level of approval required to set pay  
4           under this section;

5           “(3) all types of actions and positions to be cov-  
6           ered;

7           “(4) the relationship between the exercise of au-  
8           thority under this section and the use of other pay  
9           incentives; and

10          “(5) a process to evaluate the effectiveness of  
11          this section.

12   **“§ 9817. Reporting requirement**

13          “The Administrator shall submit to the appropriate  
14          committees of Congress, not later than February 28 of  
15          each of the next 10 years beginning after the date of en-  
16          actment of this chapter, a report that provides the fol-  
17          lowing:

18               “(1) A summary of all bonuses paid under sub-  
19               sections (b)–(c) of section 9804 during the preceding  
20               fiscal year. Such summary shall include the total  
21               amount of bonuses paid, the total number of bo-  
22               nuses paid, the percentage of bonuses awarded to  
23               supervisors, and the average percentage used to cal-  
24               culate the total average bonus amount, under each  
25               of those subsections.



1           “(2) A summary of all bonuses paid under sub-  
2 sections (b)–(e) of section 9805 during the preceding  
3 fiscal year. Such summary shall include the total  
4 amount of bonuses paid, the total number of bo-  
5 nuses paid, the percentage of bonuses awarded to  
6 supervisors, and the average percentage used to cal-  
7 culate the total average bonus amount, under each  
8 of those subsections.

9           “(3) The total number of term appointments  
10 converted during the preceding fiscal year under sec-  
11 tion 9806 and, of that total number, the number of  
12 conversions that were made to address a critical  
13 need described in the workforce plan pursuant to  
14 section 9802(b)(2).

15           “(4) The number of positions for which the rate  
16 of basic pay was fixed under section 9807 during the  
17 preceding fiscal year, the number of positions for  
18 which the rate of basic pay under such section was  
19 terminated during the preceding fiscal year, and the  
20 number of times the rate of basic pay was fixed  
21 under such section to address a critical need de-  
22 scribed in the workforce plan pursuant to section  
23 9802(b)(2).

24           “(5) The number of scholarships awarded  
25 under section 9811 during the preceding fiscal year



1 and the number of scholarship recipients appointed  
2 by the Administration during the preceding fiscal  
3 year.

4 “(6) The total number of distinguished scholar  
5 appointments made under section 9812 during the  
6 preceding fiscal year and, of that total number, the  
7 number of appointments that were made to address  
8 a critical need described in the workforce plan pur-  
9 suant to section 9802(b)(2).

10 “(7) The average amount paid per appointee,  
11 and the largest amount paid to any appointee, under  
12 section 9813 during the preceding fiscal year for  
13 travel and transportation expenses.

14 “(8) The total number of employees who were  
15 awarded enhanced annual leave under section 9814  
16 during the preceding fiscal year; of that total num-  
17 ber, the number of employees who were serving in a  
18 position addressing a critical need described in the  
19 workforce plan pursuant to section 9802(b)(2); and,  
20 for employees in each of those respective groups, the  
21 average amount of additional annual leave such em-  
22 ployees earned in the preceding fiscal year (over and  
23 above what they would have earned absent section  
24 9814).



1           “(9) The total number of appointments made  
2           under section 9815 during the preceding fiscal year  
3           and, of that total number, the number of appoint-  
4           ments that were made to address a critical need de-  
5           scribed in the workforce plan pursuant to section  
6           9802(b)(2).

7           “(10) The number of employees for whom the  
8           Administrator set the pay under section 9816 during  
9           the preceding fiscal year and the number of times  
10          pay was set under such section to address a critical  
11          need described in the workforce plan pursuant to  
12          section 9802(b)(2).”.

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

**“98. National Aeronautics and Space Administration ..... 9801”.**



108TH CONGRESS  
1ST SESSION

## H. R. 1085

To make certain workforce authorities available to the National Aeronautics and Space Administration, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 5, 2003

Mr. BOEHLERT introduced the following bill; which was referred to the Committee on Science, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

### A BILL

To make certain workforce authorities available to the National Aeronautics and Space Administration, and for other purposes.

*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.

The National Aeronautics and Space Act of 1958 (42 U.S.C. 2451 and following) is amended by adding at the end the following:

#### “TITLE V—WORKFORCE AUTHORITIES

##### “DEFINITIONS

“SEC. 501. For purposes of this title—

“(1) the term ‘employee’ means an individual employed in or under the Administration;

“(2) the term ‘appropriate committees of Congress’ means—

“(A) the Committee on Science and the Committee on Appropriations of the House of Representatives; and

“(B) the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate;

“(3) the term ‘critical need’ means a specific and important requirement of the Administration’s mission that the Administration is unable to fulfill because the Administration lacks the appropriate employees either because of the inability to fill positions or because employees do not possess the requisite skills;

“(4) the term ‘Workforce Plan’ means the plan required under section 502(a); and

“(5) the term ‘redesignation bonus’ means a bonus under section 504 paid to an individual described in subsection (a)(2) thereof.

##### “PLANNING, NOTIFICATION, AND REPORTING REQUIREMENTS

“SEC. 502. (a) Not later than 90 days before first exercising any of the workforce authorities made available by this title, the Administrator shall submit to the appropriate committees of Congress a written plan, which shall include a description of—

“(1) each critical need of the Administration and the criteria used in its identification;

“(2) the functions, approximate number, and classes or other categories of positions or employees that address critical needs and that would be eligible for each authority proposed to be exercised under section 503, and 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) any critical need identified under paragraph (1) which would not be addressed by the authorities made available by section 503, and 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 in sections 504, 505, and 506 (including, in the case of sections 504 and 505, 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 title is carried out in a manner consistent with merit system principles;

“(6) the means by which employees will be afforded the notification required under subsection (b) and the third sentence of subsection (c)(1), respectively; and

“(7) the methods that will be used to determine if the authorities exercised under section 503 have successfully addressed each critical need identified under paragraph (1).

“(b) Not later than 60 days before first exercising any of the workforce authorities made available by this title, the Administrator shall provide to all employees the Workforce Plan, along with any additional information which the Administrator considers appropriate.

“(c)(1) The Administrator may from time to time modify the Workforce Plan. Not later than 90 days before implementing any such modifications, the Administrator shall submit a description of the proposed modifications to the appropriate committees of Congress. Not later than 60 days before implementing any such modifications, the Administrator shall provide an appropriately modified plan to all employees of the Administration.

“(2) Any reference in this title or any other provision of law to the Workforce Plan shall be considered to include any modification made in accordance with this subsection.

“(d) None of the workforce authorities made available by section 503 may be exercised in a manner inconsistent with the Workforce Plan.

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

“(1) an evaluation, using the methods described in subsection (a)(7), of whether the authorities exercised under section 503 successfully addressed each critical need identified under subsection (a)(1);

“(2) to the extent that they did not, an explanation of the reasons why any critical need (apart from the ones under subsection (a)(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.

“(f) Whenever the Administration submits its performance plan under section 1115 of title 31, United States Code, 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.

#### “WORKFORCE AUTHORITIES

“SEC. 503. (a) The workforce authorities made available by this title are as follows:

“(1) The authority to pay recruitment, redesignation, and relocation bonuses, as provided by section 504.

“(2) The authority to pay retention bonuses, as provided by section 505.

“(3) The authority to apply subchapter II of chapter 35 of title 5, United States Code (relating to voluntary separation incentive payments), as added by section 1313(a)(1)(A) of the Homeland Security Act of 2002 (Public Law 107-296), in accordance with section 506.

“(4) The authority to make term appointments and to take related personnel actions, as provided by section 507.

“(5) The authority to fix rates of basic pay for critical positions, as provided by section 508.

“(6) The authority to extend intergovernmental personnel act assignments, as provided by section 509.

“(b) No authority under this title may be exercised with respect to any officer who is appointed by the President, by and with the advice and consent of the Senate.

“(c) Unless specifically stated otherwise, all authorities provided under this title are subject to section 5307 of title 5, United States Code. For purposes of applying such section 5307, cash payments made under authority of this title shall be treated in the same way as if they had instead been made under the corresponding provisions of such title 5 (if any).

“RECRUITMENT, REDESIGNATION, AND RELOCATION BONUSES

“SEC. 504. (a) Notwithstanding section 5753 of title 5, United States Code, the Administrator may pay a bonus to an individual, in accordance with the Workforce Plan and subject to the limitations in this section, if the Administrator determines that the Administration would be likely, in the absence of a bonus, to encounter difficulty in filling a position, and if the individual—

“(1) is newly appointed as an employee of the Federal Government;

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

“(3) is currently employed by the Federal Government and must 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 pursuant to section 502(a)(2), 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 5304–5304a of title 5, United States Code) as of the beginning of the service period multiplied by the service period specified pursuant to subsection (d)(1)(A); or

“(2) 100 percent of the employee’s annual rate of basic pay (including comparability payments under sections 5304–5304a of title 5, United States Code) as of the beginning of the service period.

“(c) If the position is not described as addressing a critical need in the Workforce Plan pursuant to section 502(a)(2), the amount of a bonus may not exceed—

“(1) 25 percent of the employee’s annual rate of basic pay (including comparability payments under sections 5304–5304a of title 5, United States Code) as of the beginning of the service period multiplied by the service period specified pursuant to subsection (d)(1)(A); or

“(2) 100 percent of the employee’s annual rate of basic pay (including comparability payments under sections 5304–5304a of title 5, United States Code) as of the beginning of the service period.

“(d)(1) Payment of a bonus under this section shall be contingent upon the individual entering into a service agreement with the Administration. The service agreement shall, at a minimum, set forth—

“(A) the required service period;

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

“(C) the amount of the bonus and the basis for calculating such amount; and

“(D) 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) The Administrator shall submit to the appropriate committees of Congress, not later than February 28 of each year, a summary of all bonuses paid under subsections (b) and (c) during the previous calendar year. Such summary shall include



the number of bonuses paid, the total amount of bonuses paid, and the average percentage used in calculating the total average bonus amount, under each such subsection.

“RETENTION BONUSES

“SEC. 505. (a) Notwithstanding section 5754 of title 5, United States Code, 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 pursuant to section 502(a)(2), the amount of a bonus may not exceed 50 percent of the employee’s annual rate of basic pay (including comparability payments under sections 5304–5304a of title 5, United States Code).

“(c) If the position is not described as addressing a critical need in the Workforce Plan pursuant to section 502(a)(2), the amount of a bonus may not exceed 25 percent of the employee’s annual rate of basic pay (including comparability payments under sections 5304–5304a of title 5, United States Code).

“(d)(1) Payment of a bonus under this section shall be contingent upon the employee entering into a service agreement with the Administration. The service agreement shall, at a minimum, set forth—

“(A) the required service period;

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

“(C) the amount of the bonus and the basis for calculating such amount; and

“(D) 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 of title 5, United States Code, or under section 504.

“(g) Before paying a bonus under this section, the Administration shall establish a plan for paying retention bonuses, subject to approval by the Office of Personnel Management.

“(h) The Administrator shall submit to the appropriate committees of Congress, not later than February 28 of each year, a summary of all bonuses paid under subsections (b) and (c) during the previous calendar year. Such summary shall include the number of bonuses paid, the total amount of bonuses paid, and the average percentage used in calculating the total average bonus amount, under each such subsection.

“VOLUNTARY SEPARATION INCENTIVE PAYMENTS

“SEC. 506. (a) In applying subchapter II of chapter 35 of title 5, United States Code, the Administrator may provide for voluntary separation incentive payments in excess of the dollar-amount limitation that would otherwise apply under section 3523(b)(3)(B) of such title, subject to subsection (b).

“(b) Voluntary separation incentive payments described in subsection (a)—

“(1) may not exceed 50 percent of the annual rate of basic pay of the employee receiving such payments (computed disregarding any comparability payments under sections 5304–5304a of title 5, United States Code);

“(2) may not, in any calendar year, be made to more than—

“(A) 10 employees; or

“(B) such greater number of employees as the Administrator may, with the approval of the Office of Management and Budget, establish in lieu of the number specified in subparagraph (A) following notification to the appropriate committees of Congress;

“(3) may not be made to an employee if the employee has within the last 12 months received, or if the employee is then receiving, a bonus or allowance under section 5753 or 5754 of title 5, United States Code, or under section 504 or 505; and

“(4) may be made only if the position in which the employee is serving addresses a critical need identified in the Workforce Plan pursuant to section 502(a)(2).

“(c)(1) The proposed use of workforce authorities in this section shall be included in the plan required by section 3522 of title 5, United States Code.

“(2) Whenever the Office of Personnel Management approves the Administration’s plan required in such section 3522, the Administration shall submit a copy of the approved plan to the appropriate committees of Congress within 15 days after the date on which it is so approved.

#### “TERM APPOINTMENTS

“SEC. 507. (a) The Administrator may authorize term appointments within the Administration made under authority of subchapter I of chapter 33 of title 5, United States Code, for a period of not less than 1 year and not more than 6 years.

“(b) Notwithstanding chapter 33 of title 5, United States Code, 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 pursuant to provisions of subchapter I of chapter 33 of title 5, United States Code, 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 of title 5, United States Code, 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.

“(f) Not later than February 28 of each year, the Administrator shall submit to the appropriate committees of Congress—

“(1) the total number of term appointments converted during the previous calendar year; and

“(2) of that total number, the number of conversions that were made to address a critical need described in the Workforce Plan pursuant to section 502(a)(2).

#### “PAY AUTHORITY FOR CRITICAL POSITIONS

“SEC. 508. (a) For the purpose of this section, the term ‘position’ means—

“(1) a position to which chapter 51 of title 5, United States Code, applies, including a position in the Senior Executive Service;

“(2) a position under the Executive Schedule under sections 5312–5317 of title 5, United States Code;

“(3) a position established under section 3104 of title 5, United States Code; or

“(4) a senior-level position to which section 5376(a)(1) of title 5, United States Code, applies.

“(b) Authority under this section—

“(1) may be exercised only with respect to a position which is described as addressing a critical need in the Workforce Plan pursuant to section 502(a)(2), and which 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 by section 5102(a)(1) of title 5, United States Code.

“(c)(1) Notwithstanding section 5377 of title 5, United States Code, 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, United States Code.

“(3) Notwithstanding any provision of section 5307 of title 5, United States Code, 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 of such title 5 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, United States Code.

“(e) The Administrator shall submit to the appropriate committees of Congress, not later than February 28 of each year, the number of critical pay positions that were established and the number of critical pay positions that were disestablished during the previous calendar year.

#### “ASSIGNMENTS UNDER THE INTERGOVERNMENTAL PERSONNEL ACT MOBILITY PROGRAM

“SEC. 509. For purposes of applying the third sentence of section 3372(a) of title 5, United States Code (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’.

#### “ENHANCED DEMONSTRATION PROJECT AUTHORITY

“SEC. 510. When conducting a demonstration project at the Administration, section 4703(d)(1)(A) of title 5, United States Code, may be applied by substituting ‘such numbers of individuals as determined by the Administrator’ for ‘not more than 5,000 individuals’.

#### “TERMINATION

“SEC. 511. The workforce authorities under section 503 shall terminate as of October 1, 2009, except that nothing in this section shall—

“(1) affect any bonus payment under sections 504 or 505 agreed to by the employee and the Administration before the termination date;

“(2) prevent an employee from being allowed to complete a term appointment made under section 507(a) if the appointment was made before the termination date;

“(3) prevent the Administrator from converting any term employees to career or career-conditional status under section 507 if the term appointment was made before the termination date;

“(4) prevent an employee from continuing to receive a rate of basic pay fixed under section 508 before the termination date; or

“(5) prevent an employee assigned under section 3372 of title 5, United States Code, from completing the extended term made under section 509 if the extension was made before the termination date.”.

SECTION-BY-SECTION ANALYSIS OF  
H.R. 1085, NASA FLEXIBILITY ACT OF 2003

**Section 1. Short Title.**

“The NASA Flexibility Act of 2003.”

**Section 2. Compensation for Certain Excepted Personnel.**

Amends section 203(c) of the National Aeronautics and Space Act of 1958 to tie the pay scale for NASA Excepted (NEX) Employees to level III of the Executive Schedule rather than the obsolescent pay scale of grade 18 of the General Schedule. Directs that the amendment in this section takes effect on the first day of the first pay period beginning on or after the date of enactment of this Act.

**Section 3. Workforce Authorities.**

Amends the National Aeronautics and Space Act of 1958 to provide an additional title, “Title V Workforce Authorities” with the following sections included under that title.

**Section 501. Definitions.**

Defines terms used in the text. Defines the term “critical need” as a specific and important requirement of NASA’s mission that the agency is unable to fulfill because NASA lacks the appropriate employees either because of the inability to fill positions or because employees lack the requisite skills. Defines the term “redesignation bonus” as a bonus which could be paid to an employee moving from one government job to another, including within NASA, without relocating to a different geographic region.

**Section 502. Planning, Notification, and Reporting Requirements.**

Requires the NASA Administrator to submit a Workforce Plan to Congress not later than 90 days before exercising any of the authorities under this title. The Workforce Plan shall be developed in consultation with the Office of Personnel Management. Requires that this Workforce Plan describe: (1) each of NASA’s critical needs and the criteria used in its identification; (2) the functions, approximate number, and classes or other categories of positions or employees that address critical needs and that would be eligible for each workforce authority provided in this title and proposed to be exercised, and how the exercise of those authorities with respect to the eligible positions or employees involved would address each critical need identified; (3) any critical need which would not be addressed by the workforce authorities provided in this title and 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 in sections 504, 505, and 506 (including, in the case of sections 504 and 505, 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 title is carried out in a manner consistent with merit system principles; (6) the means by which NASA employees will be afforded the notification required for the Workforce Plan or any modifications thereof; and (7) the methods that will be used to determine if the workforce authorities provided in this title have successfully addressed each critical need identified. Requires that NASA provide the Workforce Plan to all employees 60 days before exercising any of the workforce authorities provided in this title. Authorizes the NASA Administrator to modify the Workforce Plan, provided that not later than 90 days before implementing any such modifications the Administrator submit a description of proposed modifications to Congress and submit such description not later than 60 days beforehand to all employees. Directs that none of the workforce authorities provided in the title may be exercised in a manner inconsistent with the Workforce Plan. Requires the NASA Administrator to submit an evaluation and analysis of the actions taken under this title not later than six years after its enactment. Requires that this evaluation and analysis include: (1) an evaluation using the methods described in the Workforce Plan of whether the authorities exercised under this title successfully addressed each critical need identified; (2) to the extent that they did not, an explanation of the reasons why any critical need 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. Directs NASA to submit its annual performance plan to the Congress that it already submits to OMB under current law.

**Section 503. Workforce Authorities.**

Specifies the workforce authorities provided in each of the following sections of this title. Prohibits all Senate-confirmed Presidential appointees at NASA from being eligible to benefit from the workforce authorities under this title.

**Section 504: Recruitment, Redesignation, and Relocation Bonuses.**

Authorizes the NASA Administrator to pay recruitment, redesignation, and relocation bonuses to an individual in accordance with the authority provided in this section and the Workforce Plan if the individual is: (1) newly appointed as an employee of the Federal Government; (2) currently employed by the Federal Government and is newly appointed to another position in the same geographic area; or (3) currently employed by the Federal Government and must relocate to a different geographic area to accept a position with the Administration. Authorizes recruitment, redesignation, and relocation bonuses under the following formula: (1) If the position addresses a critical need, the amount of a bonus may not exceed 50 percent of an employee's annual salary (including comparability payments) multiplied by an agreed-upon service period; (2) If the position does not address a critical need, the amount of a bonus may not exceed 25 percent of an employee's annual salary (including comparability payments) multiplied by an agreed-upon service period; and (3) In either case, the total bonus may not exceed the employee's annual salary (including comparability payments) at the beginning of the employee's period of service. Requires that payment of a bonus is contingent on the employee entering into a service agreement with NASA. Requires that the service agreement, at a minimum, establish: (1) the required service period; (2) the payment schedule and method of payment which may include a lump-sum payment, installment payments, or a combination thereof; (3) the amount of the bonus and the basis for calculating such amount; and (4) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed, and the effect of the termination. Requires that an employee's service period may not be less than six months and may not exceed four years. Requires NASA to establish a plan for paying such bonuses, subject to OPM approval, before paying a bonus under this section. Directs the NASA Administrator to submit an annual report to Congress with specific information about the bonuses paid under this section for the previous calendar year not later than February 28 of each year.

**Section 505. Retention Bonuses.**

Authorizes the NASA Administrator to pay higher retention bonuses than is provided under current law and in accordance with the authority provided in this section and the Workforce Plan if the Administrator determines that the unusually high or unique qualifications of the employee or a special need of NASA makes it essential to retain the employee and the employee would be likely to leave in the absence of a retention bonus. Authorizes retention bonuses under the following formula: (1) If the position addresses a critical need, the amount of a bonus may not exceed 50 percent of an employee's annual salary (including comparability payments); or (2) If the position does not address a critical need, the amount of a bonus may not exceed 25 percent of an employee's annual salary (including comparability payments). Requires that payment of a bonus is contingent on the employee entering into a service agreement with NASA unless NASA pays a retention bonus in biweekly installments to the employee. Requires that the service agreement, at a minimum, establish: (1) the required service period; (2) the payment schedule and method of payment which may include a lump-sum payment, installment payments, or a combination thereof; (3) the amount of the bonus and the basis for calculating such amount; and (4) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed, and the effect of the termination. Requires that the service period may not be less than six months and may not exceed four years. Requires that an employee is not entitled to a retention bonus under this section during a service period when other bonuses were previously established for the employee. Requires NASA to establish a plan for paying retention bonuses, subject to OPM approval, before paying a retention bonus under this section. Directs the NASA Administrator to submit an annual report to Congress with specific information of the retention bonuses paid under this section for the previous calendar year not later than February 28 of each year.

**Section 506. Voluntary Separation Incentives.**

Authorizes the NASA Administrator to pay Voluntary Separation Incentive (VSI) payments up to 50 percent of an employee's annual salary if the employee is in a position that fills a critical need. Requires that VSI payments under this section are limited to only 10 employees in any calendar year, unless OMB approves a greater number of employees and Congress is notified. Requires that a NASA employee is

not eligible to receive a VSI payment authorized under this section if the employee received certain other bonuses in the previous twelve months. Requires the proposed use of workforce authorities in this section be included in the agency's plans to OPM on the intended use voluntary separation incentive payments required under current law. Directs NASA to submit a copy of its plan on the use of incentive payments to Congress within 15 days after OPM's approval of the plan.

**Section 507. Term Appointments.**

Authorizes the NASA Administrator to make term appointments within NASA for not less than one year and not more than six years. Authorizes the NASA Administrator to convert a term appointment to a permanent appointment in the competitive service within NASA without further competition if: (1) the individual was hired under the open, competitive examining procedures under current law; (2) the original announcement stated the appointment may be converted from term to career-conditional; (3) the individual has completed at least two years of the term appointment; (4) the employee's performance was at least fully successful or equivalent; and (5) the position is in the same occupational series and geographic location and provides no greater promotion potential than the term appointment. Authorizes the NASA Administrator to convert a term appointment to a permanent appointment in the competitive service within NASA through internal competitive procedures if conditions (1) through (4) above are met. Directs that an employee converted under this section becomes a career-conditional employee unless the employee has otherwise completed the service requirements for career tenure. Directs that an employee converted to career or career-conditional employment under this section acquires competitive status upon conversion. Directs the NASA Administrator to submit an annual report to Congress on the number of term appointments and conversions made for the previous calendar year not later than February 28 of each year.

**Section 508. Pay Authority for Critical Positions.**

Authorizes the NASA Administrator to fix the salary for up to 10 administrative, technical and professional positions described in the section to the salary level of the Vice-President prescribed in current law if the position addresses a critical need identified in the Workforce Plan and the position requires expertise of an extremely high level in scientific, technical, professional, or administrative fields. Directs that the NASA Administrator may not delegate this authority. Requires that an employee receiving pay at a rate fixed under this section may not be paid an allowance, differential, bonus, award, or similar cash payment during any calendar year that would cause the employee's salary total to exceed the annual rate of salary prescribed for the Vice-President under current law. Directs the NASA Administrator to submit an annual report to Congress on the number of critical positions established or disestablished during the previous calendar year not later than February 28 of each year.

**Section 509. Assignments under the Intergovernmental Personnel Act.**

Authorizes the NASA Administrator to extend the period of an employee's Intergovernmental Personnel Act (IPA) assignment up to four years, rather than two years provided under current law, following an initial two-year assignment with the concurrence of the employee and the government or organization concerned.

**Section 510. Enhanced Demonstration Project.**

Authorizes NASA when conducting a demonstration project to apply that project to "such number of individuals determined by the Administrator" rather than "not more than 5,000 individuals" as specified under current law.

**Section 511. Termination.**

Directs that the workforce authorities listed under section 503 shall terminate on October 1, 2009, except if certain specified conditions for salary, bonuses, or appointments made before the termination date are satisfied. Requires that this termination shall not: (1) affect any bonus payment under sections 504 or 505 agreed to by the employee and the Administration before the termination date; (2) prevent an employee from being allowed to complete a term appointment made under section 507 if the appointment was made before the termination date; (3) prevent the Administrator from converting any term employees to career or career-conditional status under section 507 if the term appointment was made before the termination date; (4) prevent an employee from continuing to receive a salary fixed under section 508 before the termination date; or (5) prevent an employee assigned under the

Intergovernmental Personnel Act from completing the extended term made under section 509 if the extension was made before the termination date.



SUMMARY OF H.R. 1085, NASA FLEXIBILITY  
ACT OF 2003 (UNDERLYING BILL)

NASA Flexibility Act of 2003—Authorizes the NASA Administrator certain workforce authorities greater than existing civil service authority that are more remunerative and flexible to implement.

(Sec. 2) Amends the National Aeronautics and Space Act of 1958 to tie the pay scale for NASA Excepted (NEX) Employees to level III of the Executive Schedule rather than the obsolescent pay scale of grade 18 of the General Schedule.

(Sec. 3) Amends the National Aeronautics and Space Act of 1958 to provide an additional title, “Title V—Workforce Authorities” with the following sections included under that title.

(Sec. 501) Defines several terms used in the title.

(Sec. 502) Directs the NASA Administrator to submit to Congress and NASA employees a Workforce Plan and any subsequent modifications developed in consultation with the Office of Personnel Management before exercising any of the authorities under this title. Directs the NASA Administrator to submit to Congress an evaluation of whether or not the authorities exercised under this bill successfully addressed NASA’s critical needs and recommendations for how NASA could address any remaining critical need six years after enactment of this title. Directs NASA to submit its annual performance plan to the Congress that the agency currently submits to OMB.

(Sec. 503) Specifies the workforce authorities and restrictions of this title.

(Sec. 504) Authorizes the NASA Administrator to pay higher recruitment and relocation bonuses than provided under current law. Defines a new category of bonus, a redesignation bonus, which could be paid to an employee moving from one government job to another, including within NASA, without relocating to a different geographic region. Authorizes recruitment, redesignation, and relocation bonuses under the following formula: (1) If the position addresses a critical need, the amount of a bonus may not exceed 50 percent of an employee’s annual salary (including comparability payments) multiplied by an agreed-upon service period; (2) If the position does not address a critical need, the amount of a bonus may not exceed 25 percent of an employee’s annual salary (including comparability payments) multiplied by an agreed-upon service period; and (3) In either case, the total bonus may not exceed the employee’s annual salary (including comparability payments) at the beginning of the employee’s period of service. Requires that payment of a bonus is contingent on the employee entering into a service agreement with NASA. Requires that the service period may not be less than six months and may not exceed four years. Requires NASA to establish a plan for paying such bonuses, subject to OPM approval, before paying a bonus under this section. Directs the NASA Administrator to submit an annual report to Congress of the bonuses paid under this section for the previous calendar year.

(Sec. 505) Authorizes the NASA Administrator to pay higher retention bonuses than is provided under current law if the Administrator determines that the unusually high or unique qualifications of the employee or a special need of NASA makes it essential to retain the employee and the employee would be likely to leave in the absence of a retention bonus. Authorizes retention bonuses under the following formula: (1) If the position addresses a critical need, the amount of a bonus may not exceed 50 percent of an employee’s annual salary (including comparability payments); or (2) If the position does not address a critical need, the amount of a bonus may not exceed 25 percent of an employee’s annual salary (including comparability payments). Requires that payment of a bonus is contingent on the employee entering into a service agreement with NASA unless NASA pays a retention bonus in biweekly installments to the employee. Requires that the service period may not be less than six months and may not exceed four years. Requires that an employee is not entitled to a retention bonus under this section during a service period when other bonuses were previously established for the employee. Requires NASA to establish a plan for paying retention bonuses, subject to OPM approval, before paying a retention bonus under this section. Directs the NASA Administrator to submit an annual report to Congress of the retention bonuses paid under this section for the previous calendar year.

(Sec. 506) Authorizes the NASA Administrator to pay Voluntary Separation Incentive (VSI) payments up to 50 percent of an employee’s annual salary if the employee

is in a position that fills a critical need. Requires that VSI payments under this section are limited to only 10 employees in any calendar year, unless OMB approves a greater number of employees and Congress is notified. Requires that a NASA employee is not eligible to receive a VSI payment authorized under this section if the employee received certain other bonuses in the previous twelve months. Directs NASA to submit a copy of its plan on the use of incentive payments to Congress within 15 days after OPM's approval of the plan.

(Sec. 507) Authorizes the NASA Administrator to make term appointments within NASA for not less than one year and not more than six years. Authorizes the NASA Administrator to convert a term appointment to a career-conditional appointment under certain conditions: (1) the individual was hired under the open, competitive examining procedures in title 5; (2) the original announcement stated the appointment may be converted from term to career-conditional; (3) the individual has completed at least two years of the term appointment; (4) the employee's performance was at least fully successful or equivalent; and (5) the position is in the same occupational series and geographic location and provides no greater promotion potential than the term appointment. Directs the NASA Administrator to submit an annual report to Congress on the number of term appointments and conversions made for the previous calendar year.

(Sec. 508) Authorizes the NASA Administrator to fix the salary for up to 10 administrative, technical and professional positions described in the section to the salary level of the Vice-President if the position addresses a critical need identified in the Workforce Plan and the position requires expertise of an extremely high level in scientific, technical, professional, or administrative fields. Directs that the NASA Administrator may not delegate this authority. Directs the NASA Administrator to submit an annual report to Congress on the number of critical positions established or disestablished during the previous calendar year.

(Sec. 509) Authorizes the NASA Administrator to extend the period of an employee's Intergovernmental Personnel Act (IPA) assignment up to four years with the concurrence of the employee and the government or organization concerned.

(Sec. 510) Authorizes NASA when conducting a demonstration project to apply that project to "such number of individuals determined by the Administrator" rather than "not more than 5,000 individuals" as specified under current law.

(Sec. 511) Directs that the workforce authorities listed under section 503 shall terminate on October 1, 2009, except if certain specified conditions for salary, bonuses, or appointments made before the termination date are satisfied.

XXIV. PROCEEDINGS OF THE FULL COMMITTEE MARKUP ON H.R.  
1085, NASA FLEXIBILITY ACT OF 2003, JULY 22, 2003

The Committee met, pursuant to call, at 10:20 a.m., in room 2318 of the Rayburn House Office Building, Hon. Sherwood L. Boehlert (chairman of the committee) presiding.

Chairman BOEHLERT. The hearing will come to—the markup will come to order. I want to welcome everyone here for this morning's markup.

Today we will be bringing to fruition much of the work the Committee has conducted over the past 7 months. The six bills we will approve will protect the environment, improve education, increase air passenger safety, prevent fires, enable buildings to better withstand earthquakes, and enable NASA to conduct its business more efficiently and effectively. Not bad for a day's work.

I will save my comments on the NASA bill until we get to that item on the agenda. But let me say that the rest of these bills are bipartisan and they, as usual, reflect months of cooperative work by the Republicans' and Democrats' staffs and Members alike. They are all carefully crafted, well-targeted approaches to solving real problems. The harmful algal bill, for example, will help support new research on the serious threat to the environment and human health. I want to congratulate Chairman Ehlert and Mr. Udall for their work on this measure. I should add that my area in upstate New York has a particular interest in this issue.

Harmful algal blooms are a growing problem in Oneida and Keuka Lakes and some of the leading experts in the country at the State University College of Environmental Science and Forestry recently rewarded a major grant to study this phenomenon. After working—however, NOAA took some of the funding away to fund other laboratory activities. After working with NOAA, the funding was restored. To prevent this in the future, I worked with Mr. Ehlert to amend the legislation to ensure that this game of research will not occur in the future.

The Minority Serving Institution bill reflects months of work, and I want to thank Mr. Forbes and Mr. Towns for working so cooperatively with us to amend their original bills. I also wanted to thank Ms. Johnson and Senator McCain for their cooperative work on this. The version of the bill we have before us today will provide needed funding for minority institutions without changing the nature and mission of the National Science Foundation. I should add that we will, however, continue to work with NSF to increase its support of minority institutions through its ongoing programs. I know the Administration has objections to this bill, but I believe we should move forward, as the Senate did, and we can see if there are any ways to accommodate Administration concerns as the bill moves forward, but move forward it must.

Mr. Forbes has also worked with the Committee and particularly with Chairman Rohrabacher on his Federal Aviation Administration Reauthorization bill. We are already deeply engaged in the staff level conference negotiations on the larger FAA bill, as this measure will put the Committee on record supporting these provisions as part of the conference. Today's bill has been our starting point in the negotiations.

Chairman Smith has worked assiduously on the fire and earthquake bills before us today. The earthquake bill takes the important step of making the National Institutes of Standards and Technology the lead agency for this program. After over a decade of complaints about the way the Federal Emergency Management Agency has handled that role, the time has come to make some changes. This is especially true given that FEMA has been absorbed into the new Department of Homeland Security. The bill does make clear, however, that FEMA continues to have responsibilities that are essential to the program. The fire bill creates a new program that originated in bills offered by Representative Camp and Senator McCain to create new standards for fire equipment and to require those standards to be met in most cases when equipment is purchased with federal money. This should upgrade the ability of our fire departments to provide for the public safety. And whenever I mention fire safety programs or any programs related to the emergency responders, I am always thankful that this Committee is graced by the presence of Curt Weldon, who is just a national leader of outstanding ability and commitment in this area.

All of these important measures reflect a great deal of work, and they will do a great deal of good. I look forward to their passage today and to their passage on the Floor this fall.

With that, the Chair now turns to the distinguished gentleman from the Lone Star State, Mr. Hall of Texas.

Mr. HALL. Thank you. And I have a few opening remarks about the NASA bill, that I would like to make before we start considering amendments to the legislation.

First, I have to say that I am disappointed that we are not deferring consideration of this legislation until after the Gehman Board has completed its report on the Space Shuttle *Columbia* accident. As the Chairman knows, the Democratic Members of this Committee have formally requested such a delay. While I know that the Chairman has said that he believes we shouldn't wait, the reality is that we are marking up this legislation just days before the start of the August recess. As a result, this legislation will not be going to the Floor until September, at the very earliest. Based on Admiral Gehman's statements, the *Columbia* Accident Investigation Board will have issued its report well before then.

And I will say more about my own amendment at the appropriate time, but its intent is to anticipate some of the Gehman Board's likely findings and recommendations. I would prefer to have those findings and recommendations in front of us as we debate the amendments, but the schedule we are on makes that absolutely impossible. However, since this appears to be the only NASA legislation that would be addressed by the Committee during this

session, I don't think we can avoid addressing the issues raised by the shuttle accident as we consider this legislation.

Well, we have a lot to consider this morning, so I will conclude my remarks at this point and yield back the balance of my time.  
[Statement of Mr. Hall follows:]

OPENING STATEMENT OF HON. RALPH M. HALL

I just have a few opening remarks that I would like to make before we start considering amendments to this legislation. First, I have to say that I am disappointed that we are not deferring consideration of this legislation until after the Gehman Board has completed its report on the Space Shuttle *Columbia* accident. As the Chairman knows, the Democratic members of this Committee had formally requested such a delay. While I know that the Chairman has said that he believes that we shouldn't wait, the reality is that we are marking up this legislation just days before the start of the August recess. As a result, this legislation will not be going to the Floor until September at the earliest. Based on Admiral Gehman's statements, the *Columbia* Accident Investigation Board will have issued its report before then.

Admiral Gehman has indicated that at least half of his report will deal with management and workforce issues. We may wind up not agreeing with his Board's recommendations. We may think that they go too far—or not far enough. Whatever we conclude, it seems to me that this Committee would benefit from having the Board's findings and recommendations available to us before we mark up NASA workforce legislation—especially since this bill is not going to be considered by the House anytime soon.

However, assuming that the Chairman decides to proceed with the markup of this legislation today, I and some of my colleagues will be offering a number of amendments that address some key issues—and that we hope the Chairman will support. Those issues range from issues raised by the Space Shuttle *Columbia* accident to the current lack of challenging goals to motivate the NASA workforce.

I'll say more about my own amendment at the appropriate time, but its intent is to anticipate some of the Gehman Board's likely findings and recommendations. I would prefer to have those findings and recommendations in front of us as we debate the amendments, but the schedule we are on makes that impossible. However, since this appears to be the only NASA legislation that will be addressed by this Committee during this Session, I don't think we can avoid addressing the issues raised by the Shuttle accident as we consider this legislation.

Well, we have a lot to consider this morning, so I will conclude my remarks at this point and yield back the balance of my time.

Chairman BOEHLERT. Thank you very much, Mr. Hall.

Our first order of business today is to recognize the newest Member of the Committee, the gentleman from Texas, Mr. Neugebauer. I am certain that you all will join me in welcoming him to the Committee. I ask unanimous consent to expand the ratio—I know Mr. Hall would like to say a few words about his colleague from Texas.

Mr. HALL. Yeah, I am looking for the words I am about to say. The words escape me except that we are honored to have him and look forward to working with him in the future. And I ask—I am going to object to almost any unanimous consent that you request, Mr. Chairman, but I am going to make a unanimous consent that I be allowed to speak about him a little bit later in the day.

Chairman BOEHLERT. Without objection. We will allow you to extol his virtues for as long as you would like whenever you want. Thank you very much.

I ask unanimous consent to expand the ratio of the Subcommittee on Research from 11 Republican Members and 9 Democrats to 12 Republicans and 10 Democrats. Without objection, so ordered.

I ask unanimous consent that the gentleman from Texas, Mr. Neugebauer, be appointed to the Subcommittee on Research. Without objection, so ordered.

Pursuant to notice, the Committee on Science is meeting today to consider the following measures: H.R. 1085, the NASA Flexibility Act of 2003, as amended; H.R. 1856, the Harmful Algal Bloom and Hypoxia Research Amendments Act of 2003, as amended; H.R. 2801, the Minority Serving Institution Digital and Wireless Technology Opportunity Act of 2003; H.R. 2734, the Federal Aviation Administration Research and Development Reauthorization Act, as amended; H.R. 2608, the National Earthquake Hazards Reduction Program Reauthorization Act of 2003, as amended; and H.R. 2692, the United States Fire Administration Authorization Act of 2003.

We will start with H.R. 1085, the NASA Flexibility Act of 2003. I ask unanimous consent for the authority to recess the Committee at any point, and without objection—

Mr. HALL. I would object, Mr. Chairman. I do object.

Chairman BOEHLERT. You do object? All in favor, say aye. There you—the ayes appear to have it.

Mr. HALL. I would ask for a recorded vote, Mr. Chairman. I would like to be heard on it.

Chairman BOEHLERT. Right to a vote. The Clerk will call the roll.

Mr. HALL. Do I understand that you overrule my right to speak on the amendment?

Chairman BOEHLERT. Well, it is my understanding from Counsel. What do I know about these things? I go to Counsel and ask for expert advice. Counsel, what do—

Mr. HALL. You ought to ask me.

Chairman BOEHLERT. Well, first I will ask Mr. Hall.

Mr. HALL. Well, we are not going to call the law or cross the river or anything. If you want to vote, let us go ahead and vote.

Chairman BOEHLERT. Well, we are going to have consultation. We are not going to be like some other infamous players in this drama on Capitol Hill and call each other names or anything else. We will try to work this out. Let us figure out what is going on.

Mr. HALL. What is a fruitcake? I guess, if we get our tail kicked, we might as well have some fun, guys.

Chairman BOEHLERT. Here is what the Chair is going to do, in the interest of comity. The Chair is going to recognize Mr. Hall for 3 minutes, and then we will have a vote.

Mr. Hall.

Mr. HALL. Mr. Chairman, the reason that I object to it is that we are going to have a hard day, and we have some differences. We have not been able to get together on a lot of these things—we don't believe that we really ought to be proceeding as we are, as I stated in my opening remarks. But I remember a time here not too long ago when we had the Honda amendment up, for example. You had asked for approval and unanimous consent earlier, and we had agreed to it, and you had the authority. I don't question your authority. I don't even question your purpose, because you have a goal in mind. Delayed any hearing until you could get your forces back here in place to prevail in the vote, and you had the right to do that, and you did that. I want us today—we are

going to be on course. We can be here until late tonight if we have to argue every issue at every crossroads that we come to.

I think the Honda amendment is the reason I object to you having the right to recess at any time. I would just ask for a regular order and suggest regular order and urge the Members on this side and all of the reasonable Members on that side to vote with me.

And I yield back my time.

Chairman BOEHLERT. Thank you for the explanation.

See how we do things in this Committee? We give the other side an opportunity to speak its peace, and then we proceed. Now the Chair will recognize Mr. Smith for a—

Mr. SMITH of Texas. Mr. Chairman, I move that the Chair have the authority to recess at any point.

Chairman BOEHLERT. Without objection, so ordered.

Mr. HALL. Here I move to table then.

Chairman BOEHLERT. Vote. All in favor of tabling, say aye. Opposed no. The nos appear to have it. The nos have it.

Mr. HALL. I ask for a recorded vote, Mr. Chairman.

Chairman BOEHLERT. The Clerk will call the roll.

The CLERK. Mr. Boehlert?

Chairman BOEHLERT. No.

The CLERK. Mr. Boehlert votes no. Mr. Lamar Smith?

Mr. SMITH of Texas. No.

The CLERK. Mr. Smith votes no. Mr. Weldon?

Mr. WELDON. No.

The CLERK. Mr. Weldon votes no. Mr. Rohrabacher?

Mr. ROHRABACHER. No.

The CLERK. Mr. Rohrabacher votes no. Mr. Barton?

Mr. BARTON. [No response.]

The CLERK. Mr. Calvert?

Mr. CALVERT. No.

The CLERK. Mr. Calvert votes no. Mr. Nick Smith?

Mr. SMITH of Michigan. No.

The CLERK. Mr. Smith votes no. Mr. Bartlett?

Mr. BARTLETT. No.

The CLERK. Mr. Bartlett votes no. Mr. Ehlers?

Dr. EHLERS. [No response.]

The CLERK. Mr. Gutknecht?

Mr. GUTKNECHT. No.

The CLERK. Mr. Gutknecht votes no. Mr. Nethercutt?

Mr. NETHERCUTT. [No response.]

The CLERK. Mr. Lucas?

Mr. LUCAS. No.

The CLERK. Mr. Lucas votes no. Mrs. Biggert?

Mrs. BIGGERT. No.

The CLERK. Mrs. Biggert votes no. Mr. Gilchrest?

Mr. GILCHREST. [No response.]

The CLERK. Mr. Akin?

Mr. AKIN. [No response.]

The CLERK. Mr. Johnson?

Mr. JOHNSON. [No response.]

The CLERK. Ms. Hart?

Ms. HART. No.

The CLERK. Ms. Hart votes no. Mr. Sullivan?

Mr. SULLIVAN. [No response.]  
The CLERK. Mr. Forbes?  
Mr. FORBES. No.  
The CLERK. Mr. Forbes votes no. Mr. Gingrey?  
Mr. GINGREY. No.  
The CLERK. Mr. Gingrey votes no. Mr. Bishop?  
Mr. BISHOP. No.  
The CLERK. Mr. Bishop votes no. Mr. Burgess?  
Mr. BURGESS. No.  
The CLERK. Mr. Burgess votes no. Mr. Bonner?  
Mr. BONNER. No.  
The CLERK. Mr. Bonner votes no. Mr. Feeney?  
Mr. FEENEY. No.  
The CLERK. Mr. Feeney votes no. Mr. Neugebauer?  
Mr. NEUGEBAUER. No.  
The CLERK. Mr. Neugebauer votes no. Mr. Hall?  
Mr. HALL. Yes.  
The CLERK. Mr. Hall votes yes. Mr. Gordon?  
Mr. GORDON. Aye.  
The CLERK. Mr. Gordon votes yes. Mr. Costello?  
Mr. COSTELLO. Aye.  
The CLERK. Mr. Costello votes yes. Ms. Johnson?  
Ms. JOHNSON. Yes.  
The CLERK. Ms. Johnson votes yes. Ms. Woolsey?  
Ms. WOOLSEY. Aye.  
The CLERK. Ms. Woolsey votes yes. Mr. Lampson?  
Mr. LAMPSON. Yes.  
The CLERK. Mr. Lampson votes yes. Mr. Larson?  
Mr. LARSON. Yes.  
The CLERK. Mr. Larson votes yes. Mr. Udall?  
Mr. UDALL. Aye.  
The CLERK. Mr. Udall votes yes. Mr. Wu?  
Mr. WU. [No response.]  
The CLERK. Mr. Honda?  
Mr. HONDA. Aye.  
The CLERK. Mr. Honda votes yes. Mr. Bell?  
Mr. BELL. Yes.  
The CLERK. Mr. Bell votes yes. Mr. Miller?  
Mr. MILLER. Aye.  
The CLERK. Mr. Miller votes yes. Mr. Davis?  
Mr. DAVIS. [No response.]  
The CLERK. Ms. Jackson Lee?  
Ms. JACKSON LEE. Aye.  
The CLERK. Ms. Jackson Lee votes yes. Ms. Lofgren?  
Ms. LOFGREN. [No response.]  
The CLERK. Mr. Sherman?  
Mr. SHERMAN. [No response.]  
The CLERK. Mr. Baird?  
Mr. BAIRD. Aye.  
The CLERK. Mr. Baird votes yes. Mr. Moore?  
Mr. MOORE. Yes.  
The CLERK. Mr. Moore votes yes. Mr. Weiner?  
Mr. WEINER. [No response.]  
The CLERK. Mr. Matheson?



Mr. MATHESON. Aye.

The CLERK. Mr. Matheson votes yes. Mr. Cardoza?

Mr. CARDOZA. Aye.

The CLERK. Mr. Cardoza votes yes.

Chairman BOEHLERT. How is Mr. Nethercutt recorded?

The CLERK. Mr. Nethercutt is not recorded.

Chairman BOEHLERT. How is Mr. Akin recorded?

The CLERK. Mr. Akin is not recorded.

Chairman BOEHLERT. How is Dr. Ehlers recorded?

The CLERK. Dr. Ehlers is not recorded.

Dr. EHLERS. No.

The CLERK. Mr. Ehlers votes no.

Chairman BOEHLERT. How are the staff—no, no. The Clerk will report.

The CLERK. Mr. Chairman, yes, 16; no, 21.

Chairman BOEHLERT. The question is now on Mr. Smith's motion to grant the Chair authority to recess at any time. All in favor say aye. Opposed no. The ayes have it. The ayes have it.

We will now consider the bill H.R. 1085, the NASA Reauthorization—the NASA Flexibility Act of 2003 as amended. I am going to open by repeating what I said about this bill at our Subcommittee markup, because everything I said then is just as true today, especially my primary point: we need to act as soon as possible to assist NASA at this critical time. I think it is simple and obvious that NASA needs to improve its ability to attract and retain the best and the brightest. Within 5 years, 1/4 of the NASA workforce will be eligible to retire. That point has been made in numerous reports by the Government Accounting Office, including the latest report issued in January, not long before the tragic loss of the Space Shuttle *Columbia*. So I don't think we can afford to wait any longer in dealing with this issue.

I know that some of my colleagues will suggest that we wait until Admiral Gehman reports before taking up this bill. I strongly disagree. Admiral Gehman's report is not likely to say anything specific about workforce reform. That is hardly the Gehman Board's focus. And let me point out, Mr. Hall and I have had lengthy conversations with Admiral Gehman and the Board Members. If anything, Admiral Gehman will simply reiterate what we already know, that NASA needs to do more to attract and retain the best possible workforce. We can begin to help NASA do that today by approving H.R. 1085. And I should add that if we are wrong, we will have a chance to amend the bill further on the Floor once the Gehman Report is released.

This bill is a carefully tailored approach to NASA's problems. We didn't just take what NASA gave us. We rejected some ideas immediately out of hand, such as creating an industry exchange program and allowing demonstration projects to become permanent automatically. We altered the language of NASA's proposals to make sure that they accomplished their stated purpose and no more. And we added significant reporting requirements, without saddling the agency with anything onerous or pointless.

Also, the authorities that we provide NASA in this bill are not radical departures from current law. They are extensions of existing authorities. For example, the bill allows NASA to pay higher

bonuses than it can now, but it can already pay bonuses. In short, H.R. 1085 is a moderate, targeted, careful approach to enable NASA to overcome one of its fundamental pressing problems. In the next few months, this Committee is going to spend a lot of time figuring out how to address a range of issues at NASA. Here is something we know how to do right now. It is time to act. Let us do it.

I understand that we will have some difficult votes today, and a lot of them are going to be procedural, and they are going to take up a lot of time. Let me say at the outset, no one is going to call anybody names. No one is going to call the cops. No one is going to ask anybody to vacate any space. This is a place where we have a collegial atmosphere, and it has always been pleasant, and we want it to continue. We are going to have differences. That is the nature of a system like this. But the fact of the matter is we are charged with sorting out our differences. And we have got to keep our eye on the overall objective: to give NASA some much needed flexibility to do what we expect it to do to attract the best and the brightest to help it with its very important mission.

I just want to point out that while this bill has been available for all to read since our June markup, we did not receive any Democratic amendments until 5:30 last night. And some of them arrived after 6:00. That is understandable on occasion, but I just want to put that on the record so we will all understand that. Nevertheless, we have gone through the amendments carefully, and believe we have separated the wheat from the chaff. So let us proceed with this bill.

With that, I am proud and pleased to turn to my distinguished Ranking Member, the gentleman from Texas, Mr. Hall.

Mr. HALL. Thank you, Mr. Chairman. I won't take a lot of time to answer your statements, except that we will have some helpful and correcting amendments as the day wears on.

[Statement of Mr. Hall follows:]

OPENING STATEMENT OF HON. RALPH M. HALL

I just have a few opening remarks that I would like to make before we start considering amendments to this legislation. First, I have to say that I am disappointed that we are not deferring consideration of this legislation until after the Gehman Board has completed its report on the Space Shuttle *Columbia* accident. As the Chairman knows, the Democratic members of this Committee had formally requested such a delay. While I know that the Chairman has said that he believes that we shouldn't wait, the reality is that we are marking up this legislation just days before the start of the August recess. As a result, this legislation will not be going to the Floor until September at the earliest. Based on Admiral Gehman's statements, the *Columbia* Accident Investigation Board will have issued its report before then.

Admiral Gehman has indicated that at least half of his report will deal with management and workforce issues. We may wind up not agreeing with his Board's recommendations. We may think that they go too far—or not far enough. Whatever we conclude, it seems to me that this Committee would benefit from having the Board's findings and recommendations available to us before we mark up NASA workforce legislation—especially since this bill is not going to be considered by the House anytime soon.

However, assuming that the Chairman decides to proceed with the markup of this legislation today, I and some of my colleagues will be offering a number of amendments that address some key issues—and that we hope the Chairman will support. Those issues range from issues raised by the Space Shuttle *Columbia* accident to the current lack of challenging goals to motivate the NASA workforce.

I'll say more about my own amendment at the appropriate time, but its intent is to anticipate some of the Gehman Board's likely findings and recommendations. I would prefer to have those findings and recommendations in front of us as we debate the amendments, but the schedule we are on makes that impossible. However, since this appears to be the only NASA legislation that will be addressed by this Committee during this Session, I don't think we can avoid addressing the issues raised by the Shuttle accident as we consider this legislation.

Well, we have a lot to consider this morning, so I will conclude my remarks at this point and yield back the balance of my time.

Mr. HALL. I yield back my time.

Chairman BOEHLERT. Okay. Without all—without objection, all Members may place opening statements in the record at this point.  
[The statements follow:]

STATEMENT OF HON. JERRY F. COSTELLO

Good morning. Today, the House Science Committee is considering six bills for mark-up. Most are non-controversial and receive wide bipartisan support.

However, I have strong reservations regarding H.R. 1085, the NASA Flexibility Act of 2003. I believe we must wait for recommendations and guidance from the Gehman Commission that will address management issues. If we are going to address the problems concerning NASA, we need to take into account the goals and vision of NASA and manned space flight. I understand that NASA needs to do more to attract and retain the best possible workforce; however, I believe we can assist NASA by waiting to hear what recommendations the Gehman Commission makes so we can address all the management problems affecting NASA and its workforce. I believe we must also continue to review NASA's existing workforce authority and why it is underutilized.

Mr. Chairman, instead of rushing to complete this significant legislation, I believe we must take a step back and review all our options before moving forward on legislation that does not address the problem.

Aside from H.R. 1085, I believe the other pieces of legislation have been considered in a bipartisan fashion and expand programs in numerous agencies. For example, H.R. 2692, the United States Fire Administration (USFA) Authorization Act of 2003, authorizes funding for USFA activities, such as training, fire research and public education over the next three years. Over the last three decades, America's fire safety record has significantly improved. However, there are still opportunities for further improvements in our fire safety record, such as encouraging the use of sprinkler systems in homes. H.R. 2692 will lead us in the right direction. As a member of the Congressional Fire Services Caucus, I am proud to support this legislation.

Further, I am glad the House Science Committee is moving forward on the FAA Research and Development Reauthorization Act of 2003. As a conferee to the FAA bill for the Science Committee, I look forward to working with my colleagues to enhance the research and development programs as laid out in the legislation before this committee.

Mr. Chairman, I want to thank the committee for all their hard work on these important issues and look forward to today's proceedings.

OPENING STATEMENT OF CONGRESSWOMAN SHEILA JACKSON LEE

Mr. Chairman, I appreciate your commitment to improving NASA, and to America's mission in space in general. I am pleased that we are focusing on the challenges that face NASA, and looking for creative strategies for rejuvenating the aging workforce. However, I associate myself with the remarks of Democratic Ranking Member Hall and Mr. Gordon on the issue of the timing of this markup. Soon we will receive a detailed report from Admiral Gehmen and the *Columbia* Accident Investigation Board, that will give us not only technical information about what brought down the shuttle, but also comprehensive recommendations for improving the hierarchical structure and communications and management at NASA—in order to improve safety.

Instead of waiting for that report, and learning from it, so that we can put safety first—we are jumping the gun and putting bonuses and “flexibility” above safety. I will offer an amendment later that addresses this safety issue and ensures that we get our priorities back in order.

I wish we could have heard Admiral Gehman's recommendations before deciding whether to give the Administrator the option of redesigning the workforce. I hope we can work toward rejuvenating the NASA workforce in a way that will enhance safety, in a bipartisan fashion once the CAIB issues its report and hearings here in the Science Committee begin in a couple of months.

Thank you.

Chairman BOEHLERT. And in line with the previous promise of the majority, we recognize Mr. Gordon for 5 minutes.

Mr. GORDON. Thank you, Mr. Chairman.

I just want to echo my—the remarks made earlier by Mr. Hall. As you know, I opposed the markup of this bill at the Subcommittee level, because I strongly believe that we should wait until the Columbia Accident Investigation Board has completed its work. As Mr. Hall has noted, Admiral Gehman has indicated that management and workforce issues are going to be a substantial part of the Board's report. I think it would be to the Committee's benefit for us to be able to see and assess the Board's findings and recommendations in this area before we markup a workforce legislation.

In his May 20 letter to me, the Chairman indicated that he did not believe that the Board would be addressing the workforce incentives included in this legislation. We will have to wait for the Board's report to know whether or not that is the case or not. However, my concern is not primarily whether the Gehman Board has specific recommendations regarding such things as recruitment or retention bonuses, it is whether the Board uncovers some serious management and workforce issues that require legislative attention by this Committee. Based on the comments of the Board Members, it appears that they will be identifying such issues in this report.

If that is the case, we need to be focusing on those issues in order to ensure that we truly are addressing the most important problems facing the NASA workforce. Otherwise we will have applied at most a Band-Aid that only gives limited assistance to that workforce. In that regard, I am reminded of the fact that NASA's own documentation indicates that it has not been making full use of its existing bonus authority, not because the bonus levels authorized are too low, but because overall budgetary problems at the centers prevent them from fully funding those bonuses, something this legislation does not fix.

Mr. Chairman, as Mr. Hall has indicated, a number of us will be offering amendments to this legislation if you decide to proceed with the markup. I hope that you can support some. Since you have indicated that there will not be a NASA authorization bill this session of Congress, this bill represents our only opportunity to deal with important workforce-related issues that we feel strongly need attention. I hope that we can approach our task constructively and achieve an outcome that has good bipartisan support.

And let me also say, Mr. Chairman, you mentioned that some of our amendments did not get to you until 5:30 or 6:00. That shouldn't—that is wrong. You should have gotten them before. But I also want to remind you that your major amendment we did not receive until 7:15 last night. So I think there really needs to be an effort on both parts, I hope that we can talk about—we are going to proceed on with this bill today, but we need to talk about our procedures to have better consultations so that we are in sync.

[Statement of Mr. Gordon follows:]

OPENING STATEMENT OF HON. BART GORDON

Mr. Chairman, I want to echo the remarks made by Ranking Member Hall. As you know, I opposed the markup of this bill at the subcommittee level because I strongly believe that we should wait until the *Columbia* Accident Investigation Board has completed its work. As Mr. Hall has noted, Admiral Gehman has indicated that management and workforce issues are going to be a substantial part of the Board's report. I think it would be to the Committee's benefit for us to be able to see and assess the Board's findings and recommendations in this area before we mark up workforce legislation.

In his May 20th letter to me, the Chairman indicated that he did not believe that the Board would be addressing the workforce incentives included in his legislation. We will have to wait for the Board's report to know whether that will be the case or not. However, my concern is not primarily whether the Gehman Board has specific recommendations regarding such things as recruitment or retention bonuses—it is whether the Board uncovers some serious management and workforce issues that require legislative attention by this Committee. Based on the comments of Board members, it appears that they will be identifying such issues in their report.

If that is the case, we need to be focusing on those issues in order to ensure that we truly are addressing the most important problems facing the NASA workforce. Otherwise we will have applied at most a "bandaid" that only gives limited assistance to that workforce. In that regard, I am reminded of the fact that NASA's own documentation indicates that it has not been making full use of its existing bonus authority—not because the bonus levels authorized are too low, but because overall budgetary problems at the Centers prevent them from fully funding those bonuses—something this legislation does nothing to fix.

Mr. Chairman, as Mr. Hall has indicated, a number of us will be offering amendments to this legislation if you decide to proceed with the markup. I hope that you will support them. Since you have indicated that there will not be a NASA Authorization bill this session of Congress, this bill represents our only opportunity to deal with important workforce-related issues that we feel strongly need attention. I hope that we can approach our task constructively and achieve an outcome that has good bipartisan support.

Thank you, and I yield back the balance of my time.

Mr. GORDON. So with that, Mr. Chairman, I thank you and I yield back the balance of my time.

Chairman BOEHLERT. Thank you very much, Mr. Gordon.

Just a couple of observations. First of all, I have met a number of times, as has Mr. Hall and as have several Members of this Committee, with Admiral Gehman. And he was indicating repeatedly that the report is—that this bill has—is totally separate from what he is going to be reporting and recommending. He has no problem with us going forward with this report. Anyone who looks at the space program, anyone who looks at the current needs of NASA can agree that this bill should go forward. They need, like, ASAP, retroactively, if possible, the flexibility we are going to provide.

Interestingly enough, some of the amendments that are being proposed, and some of them we will accept, I might add, from the Democrat side, but some of them that are going to be proposed really should be deferred until we have the benefit of the Gehman Committee Report. We recognize some instances where that should be true. And I don't want anyone to leave this room feeling that we are not going to reauthorize NASA in this Congress. We are probably not going to be able to get it completed this year because of the schedule, but we are going to do—deal with the reauthorization of NASA.

So with that, let us go on. I ask unanimous consent that the substitute to H.R. 1085—

Mr. HALL. Would the gentleman yield before you go on?

Chairman BOEHLERT. I would be glad to yield to the distinguished gentleman.

Mr. HALL. Why do you think it is so important to rush to judgment when you haven't had a reauthorization bill since you have been Chairman? What is the hurry? Why can't we wait for that report?

Chairman BOEHLERT. You mean the reauthorization of this bill?

Mr. HALL. Yes.

Chairman BOEHLERT. Oh, no. The—this bill—

Mr. HALL. But we have had no reauthorization bill, that I remember, in the last two and a half—NASA reauthorization—

Chairman BOEHLERT. You are right. And—

Mr. HALL [continuing]. For the last 2½ or maybe 3 years.

Chairman BOEHLERT. The reauthorization expires at the end of this year, and so then we should go forward with the reauthorization. We would have that completed by now had—

Mr. HALL. Mr. Chairman, it expired last year.

Chairman BOEHLERT. The point is, on February 1, 10:59—8:59 on a sad Saturday morning, everything changed with respect to this Committee and the manner in which to address NASA. We had every intention of going forward this year early on with the reauthorization of NASA. That is on hold for very obvious reasons. But what should not be held hostage is our desire to give NASA the flexibility it needs to do what we expect it to do. And we want to give them this opportunity for things like bonuses, retention flexibility, recruitment flexibility. No one can argue with the basic premise of this bill.

The only argument has been, the only difference of opinion between this side and your side, and they meld so often, and very effectively I might add, and good public policy results from that, the only real disagreement has been the timing. And everyone—some people keep insisting that we wait until we have the benefit of the Gehman Commission Report. And we are saying unequivocally, based upon conversations with Admiral Gehman and Members of the Board, that what they are proposing in their report is not, in any way, shape, or manner, contrary to what we are suggesting in this legislation. And I say let us get on with the job.

Mr. HALL. Mr. Chairman, we have had differences. Less than 45 minutes ago, I was told you were going to oppose my amendment.

Chairman BOEHLERT. Is that the amendment we got yesterday at 5:30, Mr.—Counsel?

The COUNSEL. Yes.

Chairman BOEHLERT. Yes. Yeah, that is—

Mr. HALL. And that you didn't answer at 7:30 last night.

Chairman BOEHLERT. Well, but how can we develop our Manager's Amendment until we have the benefit of your input? Because the Manager's Amendment reflects the interests of the entire Committee, Republican and Democrat alike. So we can't go forward with the Manager's Amendment until we know what all sides to the argument want to advance.

Mr. HALL. We told you a long time ago we were going with my amendment. I think you had that knowledge, but if you didn't, I accept your word for that.

Chairman BOEHLERT. Well, we knew you were going to have an amendment, and we always know you are going to have an amendment, as you should have an amendment. You are entitled to have an amendment, but we didn't know the details of it. Quite frankly, I am enamored with some of the things you have in your amendment, and I am unalterably opposed to other things you have in your amendment.

Let us go forward. Let us go forward. I ask unanimous consent that the substitute to H.R. 1085, as adopted by the Subcommittee on Space and Aeronautics be considered as the original text for the purpose of the markup at Full Committee. Hearing no objection, so ordered.

I ask unanimous consent that the bill is considered as read and open to amendment at any point and that the Members proceed with the amendments in the order of the roster. Without objection, so ordered.

The bill is now open for amendment.

The first amendment on the roster is the Manager's Amendment offered by me. I ask unanimous consent that the amendment be considered en bloc. Without objection, so ordered.

This is our first amendment. Per our discussions with the majority at government reform and government affairs, the amendment drops the voluntary separation payment, caps the scholarship pay back period at 4 years, reduces the layover period for changes to the workforce plan to 60 days, requires NASA to submit reports for 6 years rather than 10, and adds the Senate provision requiring the workforce report to include a reaction to the Columbia Accident Investigation Board.

The Clerk will report the amendment.

The CLERK. En Bloc Amendment to H.R. 1085 offered by Mr. Boehlert.

Chairman BOEHLERT. Now I just reversed the order. I just gave my statement before the amendment was offered, so the amendment is now offered. Do you have the statement explaining what it is?

I ask unanimous consent to dispense with the reading. And without objection, so ordered.

And I just explained the amendment. Now is there further discussion on the amendment?

Mr. HALL. Mr. Chairman, I have some discussion on it.

Chairman BOEHLERT. The Chair recognizes Mr. Hall.

Mr. HALL. Mr. Chairman, I had not really intended to seek a recorded vote, even on your amendment, but at this time, I see very little reason to support it. If anything, the fact that there have been major changes to the workforce bill just hours prior to both the Subcommittee markup and now this Full Committee markup indicates that this is still not a mature piece of legislation, I am sorry to say. I am told that these latest changes are not the result of negotiations with the minority on these proposed provisions. The amendment reinforces my opinion that we shouldn't be marking up the bill at this time.

If anything, the latest en bloc amendment seems to weaken the oversight requirements on NASA at a time when I think we should be strengthening them. This is not the time to get weak on safety,

and it is not the time to get weak on reporting. This is a time to upgrade that. This is a time to seek safety as our number one thrust in this bill or any other bill that emanates or passes through this Committee. And I am afraid that the innocuous provision that asks NASA, simply asks them to include a reaction to the Columbia Accident Investigation Board recommendations does very little to address the serious issues being considered by the Board. And of course, the workforce plan itself is essentially non-binding on NASA.

Quite simply, the proposed provision has no teeth, and NASA will not be required to implement any of the Gehman Board's recommendations. We could do that if we had them. And we are just a few days away from having them. Nothing is going to happen for the next 3, 4, 5, or 6 weeks. Mr. Chairman, I reluctantly conclude that this amendment really doesn't address our concerns with the bill. It doesn't even start to. Actually, I think, you have weakened the report requirements. And I just don't think that is good, and I urge you to reconsider it.

I yield back my time.

Chairman BOEHLERT. Thank you very much.

Just let the Chair state, without any hesitation or equivocation so that everyone is crystal clear, everyone in this Committee, every single Member, safety, safety, safety first and foremost. We are not, in any way, shape, or manner, putting that commitment in jeopardy.

Secondly, we don't just ask NASA, we require NASA to respond to the Columbia Accident Investigation Board. If there is no further discussion, the vote occurs on the amendment.

Mr. GORDON. Mr. Chairman.

Chairman BOEHLERT. All in favor, say—

Mr. GORDON. Mr. Chairman.

Chairman BOEHLERT. Mr. Gordon.

Mr. GORDON. Thank you.

Mr. Chairman, as often is the case with amendments, there is good news and bad news. The good news—and let me concede this. The good news is that there are some aspects of this bill that—on your en bloc that do improve the bill. The bad news is that we did not receive this until 7:15 last night. It does include some portions, as Mr. Hall said, that we think harm the bill. But this is a product, just unilaterally, of the work of the majority of the Science Committee and the majority of the Government Reform Committee with no effort to bring even modest improvements with consultation from the majority. We did not see this until 7:15 last night.

Again, there are good aspects to this. I think that we could have made it a little bit better. It is always going to be your bill. The vast majority of all of this will be your bill. We would like to have a—play a positive role, where we can, in trying to make it a little bit better, and we were not given that opportunity in this one.

Chairman BOEHLERT. Thank you very much for your comments on a dialogue that has been in process for several months now. We all agree on the basic problem. We want to provide a solution. We are not willing to wait for that solution. We want to move forward, so if—

Mr. ROHRBACHER. Mr. Chairman.



Chairman BOEHLERT. Yes. Mr. Rohrabacher, the distinguished Chair of the Subcommittee on Space?

Mr. ROHRABACHER. Yes, it is almost the—for this discussion, I thought I might be the extinguished rather than the distinguished Chairman.

I just—I mean, I sympathize with our colleagues on the other side of the aisle, but just to note, we did have a markup, and we did have a hearing on this. And we have had discussion on this over the last few months, and so this hasn't—this issue has not been, you know, locked away. It has been open, and we have had action on it at the Subcommittee, so just to note.

Mr. GORDON. Would my friend yield?

Mr. ROHRABACHER. I certainly will.

Mr. GORDON. I don't think anybody in this body has a better Subcommittee Chairman than I do. Yes, you are correct; this has been on the table a long time. We have talked about it. Again, no one could ask any more of you. But there is a difference between the general bill of the subject and an en bloc amendment that we didn't get until last night. A lot of these issues have not been on the table, have not been discussed. So where we are now is we have agreed to disagree as to the timing, in terms of should we wait for Gehman or not. You know, we have—or the Committee has decided to go forward.

Now the question is how can we get the best bill. And that is what we want to try to do is be a part of helping you get the very best bill. And so again, we need to distinguish between something—the general discussion. We are past the general discussion. We are past whether or not we are going to go forward today. Now we are talking about specific matters to try to make the bill better.

Mr. ROHRABACHER. Reclaiming my time, I can't find anything I disagree with my colleague about. Thank you.

Chairman BOEHLERT. Can you believe that? We are getting along well here.

The vote occurs on the amendment. All in favor, say aye. Opposed no. The ayes have it. The ayes have it, and the amendment is agreed to.

Mr. HALL. I would like a recorded vote, please.

Chairman BOEHLERT. The Clerk will call the roll.

The CLERK. Mr. Boehlert?

Chairman BOEHLERT. Aye.

The CLERK. Mr. Boehlert votes yes. Mr. Lamar Smith?

Mr. SMITH of Texas. Aye.

The CLERK. Mr. Smith votes yes. Mr. Weldon?

Mr. WELDON. Aye.

The CLERK. Mr. Weldon votes yes. Mr. Rohrabacher?

Mr. ROHRABACHER. Aye.

The CLERK. Yes. Mr. Rohrabacher votes yes. Mr. Barton?

Mr. BARTON. [No response.]

The CLERK. Mr. Calvert?

Mr. CALVERT. Yes.

The CLERK. Mr. Calvert votes yes. Mr. Nick Smith?

Mr. SMITH of Michigan. Yes.

The CLERK. Mr. Smith votes yes. Mr. Bartlett?

Mr. BARTLETT. Yes.

The CLERK. Mr. Bartlett votes yes. Mr. Ehlers?  
Dr. EHLERS. [No response.]  
The CLERK. Mr. Gutknecht?  
Mr. GUTKNECHT. Yes.  
The CLERK. Mr. Gutknecht votes yes. Mr. Nethercutt?  
Mr. NETHERCUTT. Yes.  
The CLERK. Mr. Nethercutt votes yes. Mr. Lucas?  
Mr. LUCAS. Yes.  
The CLERK. Mr. Lucas votes yes. Mrs. Biggert?  
Mrs. BIGGERT. Yes.  
The CLERK. Mrs. Biggert votes yes. Mr. Gilchrest?  
Mr. GILCHREST. [No response.]  
The CLERK. Mr. Akin?  
Mr. AKIN. Yes.  
The CLERK. Mr. Akin votes yes. Mr. Johnson?  
Mr. JOHNSON. [No response.]  
The CLERK. Ms. Hart?  
Ms. HART. Yes.  
The CLERK. Ms. Hart votes yes. Mr. Sullivan?  
Mr. SULLIVAN. [No response.]  
The CLERK. Mr. Forbes?  
Mr. FORBES. Yes.  
The CLERK. Mr. Forbes votes yes. Mr. Gingrey?  
Mr. GINGREY. [No response.]  
The CLERK. Mr. Bishop?  
Mr. BISHOP. Yes.  
The CLERK. Mr. Bishop votes yes. Mr. Burgess?  
Mr. BURGESS. Yes.  
The CLERK. Mr. Burgess votes yes. Mr. Bonner?  
Mr. BONNER. Yes.  
The CLERK. Mr. Bonner votes yes. Mr. Feeney?  
Mr. FEENEY. Yes.  
The CLERK. Mr. Feeney votes yes. Mr. Neugebauer?  
Mr. NEUGEBAUER. Yes.  
The CLERK. Mr. Neugebauer votes yes. Mr. Hall?  
Mr. HALL. No.  
The CLERK. Mr. Hall votes no. Mr. Gordon?  
Mr. GORDON. No.  
The CLERK. Mr. Gordon votes no. Mr. Costello?  
Mr. COSTELLO. No.  
The CLERK. Mr. Costello votes no. Ms. Johnson?  
Ms. JOHNSON. [No response.]  
The CLERK. Ms. Woolsey?  
Ms. WOOLSEY. No.  
The CLERK. Ms. Woolsey votes no. Mr. Lampson?  
Mr. LAMPSON. No.  
The CLERK. Mr. Lampson votes no. Mr. Larson?  
Mr. LARSON. No.  
The CLERK. Mr. Larson votes no. Mr. Udall?  
Mr. UDALL. No.  
The CLERK. Mr. Udall votes no. Mr. Wu?  
Mr. WU. [No response.]  
The CLERK. Mr. Honda?  
Mr. HONDA. No.

The CLERK. Mr. Honda votes no. Mr. Bell?  
 Mr. BELL. No.  
 The CLERK. Mr. Bell votes no. Mr. Miller?  
 Mr. MILLER. No.  
 The CLERK. Mr. Miller votes no. Mr. Davis?  
 Mr. DAVIS. No.  
 The CLERK. Mr. Davis votes no. Ms. Jackson Lee?  
 Ms. JACKSON LEE. No.  
 The CLERK. Ms. Jackson Lee votes no. Ms. Lofgren?  
 Ms. LOFGREN. [No response.]  
 The CLERK. Mr. Sherman?  
 Mr. SHERMAN. [No response.]  
 The CLERK. Mr. Baird?  
 Mr. BAIRD. No.  
 The CLERK. Mr. Baird votes no. Mr. Moore?  
 Mr. MOORE. No.  
 The CLERK. Mr. Moore votes no. Mr. Weiner?  
 Mr. WEINER. [No response.]  
 The CLERK. Mr. Matheson?  
 Mr. MATHESON. No.  
 The CLERK. Mr. Matheson votes no. Mr. Cardoza?  
 Mr. CARDOZA. No.  
 The CLERK. Mr. Cardoza votes no.  
 Chairman BOEHLERT. How is Mr. Johnson recorded?  
 The CLERK. Mr. Johnson is not recorded.  
 Mr. JOHNSON. Mr. Johnson of Illinois votes yes.  
 Chairman BOEHLERT. How is Mr. Ehlers of Michigan recorded?  
 The CLERK. Mr. Ehlers is not recorded.  
 Dr. EHLERS. Yes.  
 The CLERK. Mr. Ehlers votes yes.  
 Chairman BOEHLERT. How is Mr. Wu of Oregon recorded?  
 The CLERK. Mr. Wu is not recorded.  
 Mr. WU. Yes.  
 The CLERK. Mr. Wu votes yes.  
 Chairman BOEHLERT. The Clerk will report.  
 The CLERK. Mr. Chairman, yes, 22; no, 16.  
 Chairman BOEHLERT. Okay. The amendment is agreed to.  
 The next amendment on the roster is amendment number two offered by Ms. Jackson Lee of Texas.  
 Ms. JACKSON LEE. I thank the Chairman——  
 Chairman BOEHLERT. The Clerk will report the amendment.  
 The CLERK. Amendment to H.R. 1085 offered by Ms. Jackson Lee of Texas.  
 Chairman BOEHLERT. I ask unanimous consent to dispense with the reading. Without objection, so ordered.  
 Ms. Jackson Lee is recognized for 5 minutes to offer her amendment.  
 Ms. JACKSON LEE. Thank you very much, Mr. Chairman. I would like to associate myself with the words of the Ranking Member and the Chairman.  
 First of all, the words of the Ranking Member, and let me thank him for his leadership. I think all of us have gone through this for the number of years that we have served on this Committee, and that is that we do wish to work across party lines in this Com-

mittee. And we believe that this Committee does extremely important work, but timing is always a question of relevance. And I do associate myself with the idea of wishing that this legislation would be delayed until we could get the full Gehman Report and have a full understanding of the complete needs of NASA as it reinvents itself in this very crucial time.

Mr. Chairman, we have noted the good news is that a large percentage of Americans are dedicated, committed, and loyal to the human space shuttle program. That is great news, because I believe this Committee is also committed to such. And I would like to associate my words with the Chairman where we have worked across party lines in a collegiate manner in this Committee. And I am delighted that the Chairman would only use first responders for the duties that they are to—that are serious as opposed to duties coming into Committee rooms with Members of Congress. So I thank him for that.

Saying that, I do have an amendment that deals with the question of safety, and I would simply like to say, as an opening point, that we do need to change the culture of NASA. Let me share with my colleagues a statement by—in the New York Times article dated July 17, “Shuttle Investigator Faults NASA for Complacency Over Safety”. NASA managers grew so complacent about safety that at time inspectors were prevented from performing spot checks, an independent investigator said yesterday.

Brigadier General Duane Deal of the Air Force, a member of the independent board investigating the shuttle *Columbia* disaster, told The Associated Press that the program that oversees shuttle inspections within the National Aeronautics and Space Administration would “take a pretty big hit” in the final report by the board, which is due at the end of August. That was a New York Times article dated July 17, and I ask unanimous consent to submit it into the record.

Chairman BOEHLERT. Without objection.  
[The information follows:]

[From the New York Times, July 17, 2003]

#### SHUTTLE INVESTIGATOR FAULTS NASA FOR COMPLACENCY OVER SAFETY

(By John Schwartz)

NASA managers grew so complacent about safety that at times inspectors were prevented from performing spot checks, an independent investigator said yesterday.

Brig. Gen. Duane Deal of the Air Force, a member of the independent board investigating the shuttle *Columbia* disaster, told The Associated Press that the program that oversees shuttle inspections within the National Aeronautics and Space Administration would “take a pretty big hit” in the final report by the board, which is due at the end of August.

General Deal, who has conducted 72 private interviews with NASA workers as part of the investigation, called the inspection program poor, and said that inspectors were prevented from making spot checks and in one case had to buy their own magnifier when the procurement process dragged on for months.

He said the decline in inspections over time suggested that some NASA managers were “perhaps out of touch with the realities of manned spaceflight” and its high level of risk.

Attempts to reach General Deal yesterday through the board were not successful.

But in public briefings, he and other members of the board have spoken extensively about the decline in inspections and the need for NASA to go back thinking of the shuttle as an experimental vehicle, not an operational craft.

Adm. Harold W. Gehman Jr., the board's chairman, said at a briefing last week that NASA should not have the expectation that "when the thing lands, that you can turn it around and get it back into the air again quickly."

In a briefing on May 28, General Deal said that the interviews were showing widespread dissatisfaction with the quality assurance programs at NASA. "We've interviewed many, many people, from line technicians all the way up through management, and none of them out there agree that we're at the 100 percent point," he said. "It's time for a relook."

During that briefing, General Deal said that the number of mandatory inspection points on the shuttle had dropped to around 8,500 from more than 40,000.

He said the board interviewers had encouraged NASA safety workers to talk about general issues as well as specific ones. Along with the questions whether they have the budget and the people to do the job well, he said, "We ask what I commonly call the 'King for a Day' or 'Queen for a Day' question: 'If you were in charge of all of NASA, what's been gnawing at you? What would you change if we gave you the right budget?'"

The board has conducted some 200 interviews, with a promise of anonymity.

Kyle Herring, a NASA spokesman, said it would be inappropriate to discuss statements by board members before the final report comes out. Mr. Herring said the NASA administrator, Sean O'Keefe, had been "unwavering" in his commitment to carry out the board's recommendations once the report is published and had appointed a task group to oversee the accomplishment of those recommendations. "NASA will take every one of those recommendations seriously," he said.

In a board briefing with reporters last Friday, General Deal said the goal of the report would be to reinvigorate the safety culture of NASA at all levels. "You can revise the programs out there and fix the top of the pyramid, but if we're not taking care of the bottom of it, things are going to crumble," he said.

Ms. JACKSON LEE. In addition, in an article dated—Washington Post, July 12, "Gehman commented similarly on e-mail, released recently by NASA, that had been sent to the *Columbia* crew during the flight, in which a flight director casually dismissed the foam strike as 'not even worth mentioning.' Gehman said, 'It tells me how widespread and deeply ingrained this sense was that foam can't hurt an orbiter.'

"The astronauts in orbit responded to the e-mail report in kind, with lighthearted dismissal." This is a Washington Post July 12 that I would like—July 12 that I ask unanimous consent to put in the record.

Chairman BOEHLERT. Without objection.

[The information follows:]

[From the Washington Post, July 12, 2003]

#### NASA ERRORS TO BE CITED IN REPORT—MISTAKES TERMED 'EQUAL' TO DIRECT CAUSE OF ACCIDENT

(By Kathy Sawyer and Eric Pianin)

The board investigating the *Columbia* accident has concluded that NASA management and safety system failures were as much a factor in the destruction of the shuttle and its seven-member crew as the foam that delivered a fatal blow to the shuttle's wing during liftoff.

Retired Adm. Harold W. Gehman Jr., chairman of the *Columbia* Accident Investigation Board, told reporters yesterday that the final report will give the same weight to the space agency's decision-making errors as it will to the direct physical cause of the Feb. 1 loss of the vehicle and its crew.

"We've now decided that these things are equal," he said. He spoke in Washington at the final formal briefing the board has scheduled before the release of its report near the end of August.

On Monday, the last in a series of impact tests sponsored by the panel proved conclusively that its theory on the disaster's cause is valid: A piece of foam insulation that fell off *Columbia's* propellant tank and struck the front of the wing during the Jan. 16 launch could easily have punched out a piece of the heat-shield material known as RCC, for reinforced carbon carbon, leading to the catastrophe two weeks later.

The test Monday, designed to re-create the launch-day impact, not only left a 16- to 17-inch hole in the carbon fiber panel, board member Scott Hubbard reported yesterday, it also dislodged an adjoining T-seal, broke a lug that held the seal in place, and left "a maze" of cracks running through the carbon fiber panel around the hole.

Board members said the launch-day breach in the wing was probably a little smaller—in the six- to 10-inch-wide range—but "in the same ballpark."

Gehman said there has been a pervasive and virtually unquestioned assumption within the shuttle program that the foam could not possibly have done such damage, even though NASA engineers had no data to prove it.

This led to a series of flawed decisions, including the failure by top managers to act on engineers' requests for spy satellite images of the shuttle in orbit. Several board members said yesterday that, based on Monday's test, the damage was likely severe enough that an inspection in space could well have revealed it, depending on lighting, shadow, contrast and other conditions.

The board has also determined that on Jan. 16, the foam chunk was almost twice as large as the next largest piece that had fallen off the tank during previous launches. "The fact that this piece of foam \* \* \* is much, much larger than NASA's previous experience is, of course, important," Gehman said, "because it gets into the question of why didn't that alarm the engineers in the program? That's kind of basic to our investigation."

Shuttle engineers referred to the Jan. 16 debris strike with the phrase "in family," meaning similar to past experience and, they assumed, well-understood.

Gehman commented similarly on e-mail, released recently by NASA, that had been sent to the Columbia crew during the flight, in which a flight director casually dismissed the foam strike as "not even worth mentioning," Gehman said: "It tells me how widespread and deeply ingrained this sense was that foam can't hurt an orbiter."

The astronauts in orbit responded to the e-mail report in kind, with lighthearted dismissal.

In an informal exchange after the briefing, Gehman said the board has met twice with the astronaut corps, urging its members to "get more aggressive and formal" in addressing potential safety issues.

After the investigation into the 1986 Challenger accident, a presidential panel recommended that present or former astronauts play a more prominent role in shuttle management and safety, and they have. In addition to veteran astronauts currently in high management positions, the active corps has small groups of astronauts that follow specific issues, Gehman noted. They "have responded positively" to his suggestion to do even more.

Panel members have expressed confidence that NASA will fix the short-term, mechanical problems such as foam shedding from the external tank, but they indicated that an independent body should be given responsibility for monitoring the needed changes in the broader system and culture. This is among several questions the board will leave for Congress or NASA to address, Gehman said.

Congress intends to respond swiftly to the board's final report this fall with a series of hearings and action on a new spending bill to provide NASA with the funds it will need to correct problems and resume shuttle operations sometime next year, according to congressional aides.

The Senate Commerce, Science and Transportation Committee has scheduled at least two hearings, to begin shortly after Labor Day, an aide to Chairman John McCain (R-Ariz.) said, while the House Science Committee will begin a series of hearings in September that will continue throughout the fall.

The witness lists for the public hearings are certain to include current and former NASA officials and contractors who were allowed to testify in secret before the board.

Ms. JACKSON LEE. This amendment specifically will provide a work plan requirement to include a description of the safeguards that will be applied to ensure that the safety or survival of any spacecraft or crew is not compromised. Simply saying that as this legislation moves forward, I would hope that bonuses and management flexibility do not come before safety.

I would be concerned—or am concerned by reports that NASA may not have given high enough priority to safety and quality assurance in the past. We will learn more by the report. But I believe that it is extremely important that as we give authority to the Administrator and give flexibility to relocate or re-designate workers

or to encourage experienced people to retire that we do not lose critical knowledge and expertise and compromise missions in the future.

I am aware of the fact that the underlying bill includes a provision that the NASA Administrator must submit a written plan to Congress 90 days before exercising any new workforce authorities. But I am also aware of a particular circular that is utilized, OMB8-76 that involves outsourcing and privatization. I am obviously opposed to that and in large scale throughout the government. And I understand that this Administration strengthened that. I don't want to outsource safety. I don't want to privatize safety, and I don't want to outsource the expertise that we are needing to make NASA and the human space shuttle flight more safe.

This will require the—this amendment will require that the Administrator does a thorough assessment of how flexibility might affect various programs, manned and unmanned. We must protect our heroic astronauts, but it would also be tragic if we began to lose more multi-billion dollar satellites or probes because we saved a few thousand dollars offering someone early retirement.

I would like to see a well thought out system set up by the Administrator to screen the job descriptions of any employees impacted by this act. If those employees have roles in safety or quality assessment, a detailed assessment should be done of how to compensate for the loss of their expertise.

I believe it is possible to have flexibility while ensuring safety, but it will take some forethought in planning. For too long, it seems, safety has been an afterthought. For many years in this particular Committee, Mr. Chairman and Ranking Member, all of us have spoken about safety. I have spoken about safety, I think, for the 10 years or so that I have been on this Committee, almost 10 years. The culture in NASA has to change. This amendment will be a beginning, but it is not the end. And I hope that this Committee, as it reviews the Gehman Report, will have an extensive review of the single most important question for human space flight, and that is safety. I hope my colleagues will support this amendment.

[Statement of Ms. Jackson Lee follows:]

STATEMENT OF CONGRESSWOMAN SHEILA JACKSON LEE

Mr. Chairman, this amendment will help ensure that we do not put bonuses and management "flexibility" before safety. I am concerned by reports that NASA may not have given high enough priority to safety and quality assurance in the past. We will learn more about it from the Gehman report later, however, I understand that in some cases there is only a single safety expert responsible for a given project subsection.

Therefore, I am worried that if we give the Administrator flexibility to relocate or redesignate workers, or to encourage experienced people to retire—we could lose critical knowledge and expertise, and compromise missions in the future.

I am pleased that the underlying bill includes a provision that the NASA Administrator must submit a written plan to Congress 90 days before exercising any of the new workforce authorities. My amendment adds that that plan will describe: "the safeguards and other measures that will be applied to ensure that this chapter is carried out in a manner that does not compromise the safety or survival of any spacecraft or crew thereof."

This will require the Administrator does a thorough assessment of how flexibility might affect various programs—manned and unmanned. We must protect our heroic astronauts, but it would also be tragic if we began to lose more multi-billion dollar

satellites or probes, because we saved a few thousand dollars offering someone early retirement. I would like to see a well-thought out system set up by the Administrator to screen the job descriptions of any employees impacted by this Act. If those employees have roles in safety or quality assessment, a detailed assessment should be done of how to compensate for the loss of their expertise.

I believe it is possible to have flexibility while ensuring safety, but it will take some forethought and planning. For too long, it seems, safety has been an afterthought. This amendment will help set that right. I hope you can support it.

Thank you.

Chairman BOEHLERT. Thank you very much.

The gentlelady makes a valued addition to this measure, and the Chair is prepared to accept your amendment. I will recognize Mr. Hall in just a moment to have further comment, but once again, this put emphasis where emphasis is due. In this Committee in this Congress, I don't think there is any dividing line when it comes to safety. We are of one mind.

Thank you very much for a valued addition. The Chair is prepared to accept it, but before doing so, will recognize Mr. Hall.

Mr. HALL. Yeah, Mr. Chairman, I thank you for accepting it, and I certainly add my support for Ms. Jackson Lee's amendment. It is a very sensible addition to the workforce plan that NASA is to provide under the terms of the bill. And as the Chairman has said, anything that relates to safety, we are all for it, and it is very important. I thank the gentlelady and yield back my time.

Chairman BOEHLERT. Thank you very much. The vote is on the amendment. All in favor say aye. Opposed no. The ayes appear to have it. The amendment is agreed to.

The next amendment on the roster is amendment number three offered by Mr. Miller. The Clerk will report.

The CLERK. Amendment to H.R. 1085 offered by Mr. Miller.

Chairman BOEHLERT. Mr. Miller is recognized—I ask unanimous consent to dispense with the reading. Without objection, so ordered.

Mr. Miller is recognized for 5 minutes to offer his amendment.

Mr. MILLER. Thank you, Mr. Chairman.

The purpose of bonuses is to reward good performance that the Chairman has pointed already in this hearing or in this markup the importance of attracting very well qualified, very committed employees to NASA. Bonuses help attract and retain good employees by rewarding hard work and excellent performance. And the tragic events—we have been tragically reminded of just how important it is to have that kind of workforce at NASA, that we do need to have the best engineers and scientists on the planet employed at NASA.

I am, however, very concerned that the bonuses are being used for employees of NASA who are not scientists, who are not engineers, but who are political appointees. They are not career employees. They are not engineers. They are not scientists. Their only real qualification is that they have political loyalty, political connections, but is not to say that they are unqualified or not doing good work. But certainly the purpose of the bonus is to reward those career employees to keep them in the government service and not the people who serve for a short period of time during a given Administration.

Mr. Chairman and Members of the Committee, NASA has been extraordinary in their use of bonuses for the political appointees.



Eleven out of eleven got bonuses last year. The only other agency in the Federal Government that got 100 percent was the Agency for International Development, which gave bonuses to three of three as opposed to eleven of eleven. And for purposes of comparison, Department of Defense, 1 percent; Department of Labor, 2 percent; Department of Commerce, 2 percent; and others in that vein. Certainly giving these bonuses to 11 of 11 does raise the specter of political cronyism of a political reward. It is hard to imagine that all of these people are doing such extraordinary work and that it is not creating resentment among the ranks of the very career professional folks that we want to retain.

So that is the purpose of this amendment. Other Administrations have not used bonuses for political appointees, and certainly that is a very strong argument that I embrace. And this amendment would prohibit bonuses for those political employees, appointees.

Chairman BOEHLERT. I thank Mr. Miller. At this time, I would like to offer a second-degree amendment, and the Clerk will distribute my second-degree amendment.

Mr. HALL. Mr. Chairman, we know what the amendment is and we think it is a good amendment. We will accept it.

Chairman BOEHLERT. Then the vote is on the amendment.

Mr. HALL. Mr. Chairman.

Chairman BOEHLERT. Well, wait. First of all, the Clerk has to dispense it, and then the Clerk will report the amendment.

The CLERK. Amendment offered by Mr. Boehlert to the amendment offer by Mr. Miller of North Carolina.

Chairman BOEHLERT. I ask unanimous consent to dispense with the reading. Without objection, so ordered.

And I recognize myself for 1 minute to thank Mr. Hall for agreeing to accept the amendment to perfect the amendment.

So the vote now is on the amendment, as—

Mr. MILLER. Mr. Chairman, could I just ask a question? I believe I do hold with Mr. Hall and agree that this is an amendment that is perfectly fine, but I just had a couple of questions, if I may direct them to the Chair.

Chairman BOEHLERT. Direct it to Counsel.

Mr. MILLER. Who are the folks that are now excluded from this exclusion? Who are the folks who are limited term appointees? What kind of duties do they have? What are their job duties?

The COUNSEL. Yes, sir. A limited term appointee is defined in Title 5, because an individual appointed on a nonrenewable appointment for a term of 3 years or less to an SES position, because the duties of that position will expire at the end of such term. And in discussions with NASA, a limited term appointee is typically used for project-based work, and they currently have nine of those employees. And they have zero limited emergency appointees, which allows a limited term appointment for 18 months versus 3 years.

Mr. MILLER. Mr. Chairman, I agree that those do not fall really in the category of political appointees, and I agree that—

Chairman BOEHLERT. Thank you very much.

Mr. HALL. Mr. Chairman.

Chairman BOEHLERT. Mr. Hall.

Mr. HALL. I would like to say that I plan to vote for the Miller Amendment. And I don't consider this amendment to be any reflection on the political appointees of NASA. I think they are just as dedicated to government service as the civil servants are, but as I look at it, it is a simple matter of what problem we are trying to address with this legislation. I think you ought to probably even, with your amendment, going to oppose this—the Miller Amendment?

Chairman BOEHLERT. No.

Mr. HALL. Okay.

Chairman BOEHLERT. Cooperation.

Mr. HALL. I guess we agree that the funds available for that purpose are going to be limited, and we ought to apply these funds where they will have the most pressing needs, and those are the civil service workforce. We don't want to dilute that effort, and I urge my colleagues to support the Miller Amendment as amended.

Chairman BOEHLERT. So the vote is on second-degree amendment to the Miller Amendment. All in favor, say aye. Opposed, no. The ayes appear to have it.

The vote now is on the base amendment, as amended. All in favor, say aye. No. The ayes appear to have it. The amendment is agreed to.

Moving right along, the next amendment on the roster is amendment number four, offered by Mr. Miller. Mr. Miller, are you ready to proceed? All right. The Clerk will report the amendment.

The CLERK. Amendment to H.R. 1085 offered by Mr. Miller.

Chairman BOEHLERT. I ask unanimous consent to dispense with the reading. Without objection, so ordered. And Mr. Miller is recognized for 5 minutes to offer his amendment.

Mr. MILLER. Thank you, Mr. Chairman.

I agree that many of the safeguards in the civil service system that were adopted as a great reform to end a system of patronage and cronyism have, at some times, led the Federal Government to being a lumbering unresponsive bureaucracy. And we do need to consider other ways to make government function more efficiently. And certainly, some demonstration projects, some experiments to see how certain kinds of different personnel policies may work better is entirely appropriate.

However, NASA already has authority to have such demonstration projects for up to 5,000 employees. They are not—they currently have no demonstration projects at all. And rather than having us see what they are doing now, telling us what they might do instead or in addition to what they are trying now, they want to go to 8,000, which is a pretty large number, particularly in view of the fact that they have had authority to use—to have demonstration projects for up to 5,000 employees, and they haven't done it at all.

In addition, in answer to questions that Mr. Gordon posed to NASA after a hearing on this topic, they were not very clear at all on what kinds of things they would try with this additional authority. Mr. Chairman, NASA has its plate full. They do need to figure out what went wrong and what they need to do to change. Trying to come up with a whole menu of experiments in personnel to go beyond the 5,000 out of 18,000 employees is perhaps something

they should not be encountering right now and undertaking right now. And it certainly undermines our ability, the Congress's ability, to oversee—to maintain our oversight of exactly what they are doing.

Let us leave them at 5,000. Let us see what they do with the 5,000. If they need more, let us let them come back later.

Chairman BOEHLERT. Thank you very much.

And the Chair opposes the amendment. And let me point out that this is something we worked out very carefully will all concerned. And the largest union representing the employees supports this amendment. They understand it. They know what our objectives are. We are talking about a large agency with over 18,000 people. We want to restrict—it won't surprise you to learn, Mr. Miller, NASA said, "No holds barred. We want to do whatever we want to do when we want to do it." And we said, "That is not the way we are going to respond to your request." We want to have it in a manageable form. So I think the provision gives NASA the workforce flexibility it needs based on 25 years experience in Federal Government of conducting demonstration projects. We drastically scaled back, as I pointed out earlier, their proposal. They just wanted to do anything at any time, and we said, "Hell no. That is not the way we are going to respond to you. We are going to have it and something that we think is manageable and passes the smile test."

So the Chair will reluctantly oppose it. Is there anyone else who wishes to speak to this?

Mr. GORDON. Mr. Chairman.

Chairman BOEHLERT. Mr. Gordon.

Mr. GORDON. Mr. Chairman, let me just remind the Committee that NASA has already had—already has the authority to have demonstration projects yet they have never used it. And so why in the world when—since they already have the authority and haven't used it are they asking for such a massive one now on top of the fact that we have asked them, "What are you going to do with it?" And they won't tell us.

Chairman BOEHLERT. Would the gentleman yield?

Mr. GORDON. Yes, sir.

Chairman BOEHLERT. Because you have got new management over at NASA, and in some instances, they are waking up to some of the realities of doing business in a highly sophisticated, very technologically oriented business. And they are beginning to realize what they should have realized earlier, but at least better late than never that they need some additional authority and flexibility to do what we expect them to do.

Mr. MILLER. If I could reclaim my time, if there is some time—

Chairman BOEHLERT. As long as you—are you through? The Ranking Member just brought me a sweet, and so I am going to have a sweet while I listen to your sweet words.

Mr. GORDON. Well, there is new management, but it is not quite as new as it was over a year ago. And once again, I think that it is putting the horse before the cart to say, "Here is a major demonstration project, even more than you have now," without them telling us what they are going to do with it.

So I have made my point. Thank you, Mr. Chairman.

Chairman BOEHLERT. Thank you very much.

I just point out that all of the protections in current law are still there. They have to go forward and get OPM approval, so this is not just sort of *carte blanche* saying, "Do whatever you want to do in any way—any manner you see fit," because we all hope and pray that the result is something that will be acceptable to us. There will be some restrictions on them.

And the Chair recognizes Mr. Weiner.

Mr. WEINER. I yield my time to the gentleman, Mr. Miller.

Mr. MILLER. And Mr. Chairman, I ask that the Chairman will yield to a question or two.

Chairman BOEHLERT. I will do my best to yield to the question, and I will do my best to give the answer. If I don't know the answer, I will finesse it until the staff tells me what to say.

Mr. MILLER. Mr. Chairman, you said that the principal union representing NASA employees supports this amendment. Is it really accurate to say that they support it or that they do not oppose it?

Chairman BOEHLERT. Support. I think that—the largest union supports this provision in this form. We have a letter. We would be glad to include the letter in the record.

Mr. MILLER. Okay. Well, I would like to see that. I can't help but notice that the number in this bill of 8,000 employees is the number of employees at NASA who are not members of the union. Is there an understanding that the employees who will be part of this demonstration project are the non-union employees?

Chairman BOEHLERT. Counsel, bail me out here, Counsel.

The COUNSEL. Yes, sir. To answer the question—first off, we will be—here is the letter we will be sending up to you, sir.

Chairman BOEHLERT. Would you give Mr. Miller a copy of the letter, because we—and let me assure Mr. Miller the way you are going to respond. No one is more interested in the workforce, quite frankly, than their union representatives. And they have a history of being very, very attentive to their needs. And we worked this with them. We don't want to go through the back door and have them waiting on the sideline. We worked it through them and the letter that you now have indicates their response. And then I will let Counsel respond to your specific question.

The COUNSEL. Sir, to your question on what is required in—with NASA management and labor organizations in existing demonstration project authority, which this amendment does not touch, in other words, this continues as law. Employees within a unit with respect to a labor organization are accorded exclusive recognition under Chapter 71 of this title and shall not be included within any project under Subsection A of this section if the project would violate a collective bargaining agreement, as defined in law, between the agency and the labor organization, unless there is a written agreement with respect to the project between the agency and the organization permitting the inclusion.

Do you want me to get you a copy of this, sir?

Mr. MILLER. Was that yes?

The COUNSEL. They would need to—sir, they would need to renegotiate the collective bargaining agreement in order to be a part of that demonstration process.

Mr. MILLER. So the understanding, in effect, is that all of the 8,000 non-union employees would be subject to the demonstration projects?

The COUNSEL. They would need to be consulted, sir.

Mr. WEINER. Permit me to reclaim my time. Can I ask the offer—the offer of the amendment question. Is there anything precluding this Committee at such time as they finally wake up and decide they want to do these demonstration projects returning to the Committee and asking for authorization authority in a separate piece of legislation?

Mr. MILLER. Mr. Weiner, that is pretty much what I said when I first explained the amendment is that they have had the right along with the authority to have up to 5,000 employees on a demonstration project. They have not used that authority at all. They have not had any demonstration projects—

Mr. WEINER. But even if we do reclaiming—

Mr. MILLER. Right.

Mr. WEINER. Even if we passed your striking amendment, there is nothing stopping us in considering a freestanding bill tomorrow if they suddenly decide—

Mr. MILLER. That is correct. That is correct. But we might ask hard questions like, “What are you going to do with this authority?” Which has not been a question that has been addressed to this point.

Chairman BOEHLERT. If there is no—

Mr. HALL. Mr. Chairman.

Chairman BOEHLERT. Yes. Mr. Hall.

Mr. HALL. Mr. Chairman, I want to add my support to Mr. Miller’s amendment. I think he has explained it very well, and I would like to reinforce what he said. When NASA sent over their enhanced workforce demonstration proposal, they were seeking, as has been said here, to have the entire NASA workforce included, and nothing less would do. Nothing less would be accepted. Now NASA is saying, “Nevermind, 8,000 employees will do just fine.” Well, if 8,000 employees is an acceptable substitute for 18,000 employees, why not the 5,000 employees allowed under existing law, as has been pointed out here?

NASA has presented no clear basis for 8,000 versus 5,000 to this Committee. And before the fact, NASA has never even attempted a workforce demonstration project, even though they could, once again, as Mr. Miller has stated, under existing law, so they have no basis for knowing what would be an acceptable number. NASA has also been unwilling, and has refused to tell this Committee what exactly it intends to do with the enhanced demonstration project authority that it is seeking.

Now the reality is that NASA is going to have its hands full with dealing with the aftermath of the Space Shuttle Columbia accident and the management issues that have surfaced. I think NASA needs to get its house in order before it goes seeking additional workforce authorities. I urge Members to support this amendment.

I yield back my time.

Chairman BOEHLERT. Thank you very much.

If there is no further discussion, the vote is on the amendment. All in favor, say aye. Opposed no. The nos appear to have it.

Mr. MILLER. Mr. Chairman, I ask for a recorded vote.  
 Mr. HALL. I ask for a recorded vote.  
 Chairman BOEHLERT. The Clerk will call the roll.  
 The CLERK. Mr. Boehlert?  
 Chairman BOEHLERT. No.  
 The CLERK. Mr. Boehlert votes no. Mr. Lamar Smith?  
 Mr. SMITH of Texas. [No response.]  
 The CLERK. Mr. Smith votes yes. Mr. Weldon?  
 Mr. WELDON. No.  
 The CLERK. Mr. Weldon votes no. Mr. Rohrabacher?  
 Mr. ROHRABACHER. I pass.  
 The CLERK. Mr. Barton?  
 Mr. BARTON. [No response.]  
 The CLERK. Mr. Calvert?  
 Mr. CALVERT. No.  
 The CLERK. Mr. Calvert votes no. Mr. Nick Smith?  
 Mr. SMITH of Michigan. [No response.]  
 The CLERK. Mr. Bartlett?  
 Mr. BARTLETT. [No response.]  
 The CLERK. Mr. Ehlers?  
 Dr. EHLERS. No.  
 The CLERK. Mr. Ehlers votes no. Mr. Gutknecht?  
 Mr. GUTKNECHT. No.  
 The CLERK. Mr. Gutknecht votes no. Mr. Nethercutt?  
 Mr. NETHERCUTT. No.  
 The CLERK. Mr. Nethercutt votes no. Mr. Lucas?  
 Mr. LUCAS. No.  
 The CLERK. Mr. Lucas votes no. Mrs. Biggert?  
 Mrs. BIGGERT. No.  
 The CLERK. Mrs. Biggert votes no. Mr. Gilchrest?  
 Mr. GILCHREST. [No response.]  
 The CLERK. Mr. Akin?  
 Mr. AKIN. No.  
 The CLERK. Mr. Akin votes no. Mr. Johnson?  
 Mr. JOHNSON. No.  
 The CLERK. Mr. Johnson votes no. Ms. Hart?  
 Ms. HART. No.  
 The CLERK. Ms. Hart votes no. Mr. Sullivan?  
 Mr. SULLIVAN. [No response.]  
 The CLERK. Mr. Forbes?  
 Mr. FORBES. No.  
 The CLERK. Mr. Forbes votes no. Mr. Gingrey?  
 Mr. GINGREY. [No response.]  
 The CLERK. Mr. Bishop?  
 Mr. BISHOP. [No response.]  
 The CLERK. Mr. Burgess?  
 Mr. BURGESS. [No response.]  
 The CLERK. Mr. Bonner?  
 Mr. BONNER. No.  
 The CLERK. Mr. Bonner votes no. Mr. Feeney?  
 Mr. FEENEY. No.  
 The CLERK. Mr. Feeney votes no. Mr. Neugebauer?  
 Mr. NEUGEBAUER. No.  
 The CLERK. Mr. Neugebauer votes no.

Chairman BOEHLERT. How is Mr. Smith of Texas recorded?  
The CLERK. Mr. Smith of Texas is not recorded.  
Mr. SMITH of Texas. No.  
The CLERK. Mr. Lamar Smith votes no. Mr. Hall?  
Mr. HALL. Yes.  
The CLERK. Mr. Hall votes yes. Mr. Gordon?  
Mr. GORDON. Aye.  
The CLERK. Mr. Gordon votes yes. Mr. Costello?  
Mr. COSTELLO. Aye.  
The CLERK. Mr. Costello votes yes. Ms. Johnson?  
Ms. JOHNSON. Aye.  
The CLERK. Ms. Johnson votes yes. Ms. Woolsey?  
Ms. WOOLSEY. Aye.  
The CLERK. Ms. Woolsey votes aye. Mr. Lampson?  
Mr. LAMPSON. Yes.  
The CLERK. Mr. Lampson votes yes. Mr. Larson?  
Mr. LARSON. Yes.  
The CLERK. Mr. Larson votes yes. Mr. Udall?  
Mr. UDALL. Yes.  
The CLERK. Mr. Udall votes yes. Mr. Wu?  
Mr. WU. Yes.  
The CLERK. Mr. Wu votes yes. Mr. Honda?  
Mr. HONDA. Yes.  
The CLERK. Mr. Honda votes yes. Mr. Bell?  
Mr. BELL. Yes.  
The CLERK. Mr. Bell votes yes. Mr. Miller?  
Mr. MILLER. Aye.  
The CLERK. Mr. Miller votes yes. Mr. Davis?  
Mr. DAVIS. Yes.  
The CLERK. Mr. Davis votes yes. Ms. Jackson Lee?  
Ms. JACKSON LEE. Aye.  
The CLERK. Ms. Jackson Lee votes yes. Ms. Lofgren?  
Ms. LOFGREN. [No response.]  
The CLERK. Mr. Sherman?  
Mr. SHERMAN. [No response.]  
The CLERK. Mr. Baird?  
Mr. BAIRD. Aye.  
The CLERK. Mr. Baird votes yes. Mr. Moore?  
Mr. MOORE. Aye.  
The CLERK. Mr. Moore votes yes. Mr. Weiner?  
Mr. WEINER. Aye.  
The CLERK. Mr. Weiner votes yes. Mr. Matheson?  
Mr. MATHESON. Aye.  
The CLERK. Mr. Matheson votes yes. Mr. Cardoza?  
Mr. CARDOZA. Yes.  
The CLERK. Mr. Cardoza votes yes.  
Chairman BOEHLERT. Well, let us see. First of all, Mr.—how is  
Mr. Burgess recorded?  
The CLERK. Mr. Burgess is not recorded.  
Mr. BURGESS. No.  
The CLERK. Mr. Burgess votes no.  
Chairman BOEHLERT. How is the distinguished Chairman of the  
Subcommittee, Mr. Rohrabacher?  
The CLERK. Mr. Rohrabacher is not recorded.

Mr. ROHRABACHER. The distinguished Chairman of the Subcommittee always backs the Chairman of the Full Committee and votes no.

The CLERK. Mr. Rohrabacher votes no.

Chairman BOEHLERT. Dr. Bartlett?

Mr. BARTLETT. No.

The CLERK. Mr. Bartlett votes no.

Mr. HALL. Mr. Chairman.

Chairman BOEHLERT. Mr. Sherman? How is Mr. Sherman recorded?

The CLERK. Mr. Sherman is not recorded.

Chairman BOEHLERT. The Clerk will report.

The CLERK. Mr. Chairman, yes, 20; no, 20.

Chairman BOEHLERT. The amendment is defeated, and we proceed onto the next.

The next amendment on the roster is amendment number five offered by Mr. Rohrabacher from California. Are you ready, Mr. Rohrabacher, to proceed?

Mr. ROHRABACHER. I guess I am ready.

Chairman BOEHLERT. The Clerk will report the amendment.

The CLERK. Amendment to H.R. 1085 offered by Mr. Rohrabacher.

Chairman BOEHLERT. I ask for unanimous consent to dispense with the reading. Without objection, it is so ordered. Mr. Rohrabacher is recognized for 5 minutes to offer his amendment.

Mr. ROHRABACHER. This amendment, it changes and amends what is currently in this bill dealing with the scholarship program. Our Subcommittee had hearings and Full Committee had hearings looking into NASA—the NASA workforce requirements. And one of the great complaints we got were, of course, that NASA is not being able to attract engineering and science students to fill its ranks with capable people. And at the same time, we have also had hearings reflecting that. We have a scholarship program—excuse me, that we have graduate programs in science and engineering in which a vast—in which the majority of students taking part in these graduate programs throughout the United States are non-U.S. citizens. And in fact, many of them are foreigners that return home with the skills that we give them.

This amendment would modify the scholarship program that is currently in the bill by suggesting that where the bill already suggests that there indicates that there will be 2 years of service for every 1 full year of scholarship for every engineering and science student that participates in the program. We have had a—some-what of an internal debate as to how extensive this scholarship program should be. I suggested that this just be a—would be only available to graduate to undergraduate students. In our debate over whether it should be extended to all engineering and science students, we have reached a compromise, Mr. Chairman, in which the scholarship program is available to juniors and seniors as well as graduate student programs. But freshmen and sophomores will not be available, because at that point, people are just going through their prerequisites.

So my amendment codifies this compromise that has been reached that juniors and seniors and graduate students would be



covered by the scholarship program. My amendment also covers the concern by Mr. Wu who was making sure that the scholarships would be available not just to U.S. citizens but also to legal residents, people who are in this country legally and certainly have every right of every other resident and citizen of the United States. So this amendment covers that concern. And I understand that there will be en bloc language or there was some language included in the en bloc amendment that will be altered by the—by an amendment at the last—the final amendment to this series of amendments that will further shape this scholarship program. And I appreciate that very much.

Chairman BOEHLERT. Thank you very much, Mr. Rohrabacher. And I want to say, this Committee is providing leadership, as evidenced by you and Mr. Wu, on scholarship for service. It just makes so much sense, and we are going to continue to provide that leadership. Is there anyone else that—

Mr. GORDON. Mr. Chairman, I would like to add my support to this thoughtful compromise.

Chairman BOEHLERT. Thank you very much, Mr. Gordon.

Mr. HALL. Mr. Chairman.

Chairman BOEHLERT. Mr. Hall?

Mr. HALL. I certainly support the Rohrabacher Amendment as I support most Rohrabacher Amendments and have for years and years and years. And I would make a suggestion while I have the opportunity, that my amendment, I think, is coming up next, and why don't we go vote to give you time to think through my amendment a little more and have more time to consider it.

Chairman BOEHLERT. All right. The question is on the amendment as offered by Mr. Rohrabacher in cooperation with Mr. Wu. All in favor say aye. No. The ayes appear to have it. And the amendment is agreed to.

I think we have got to go forward now at this particular juncture before we hear from our distinguished colleague from Texas, Mr. Hall. So the Committee will stand in recess. We don't have enough time to go forward now. Let us go forward and we will be back shortly.

[Recess.]

Chairman BOEHLERT. Next on the amendment roster is amendment number seven offered by Mr. Hall from Texas. Are you ready to proceed, Mr. Hall?

Mr. HALL. Yes, Mr. Chairman. I have an amendment at the desk.

Chairman BOEHLERT. The Member will suspend.

The Chair recognizes Mr. Forbes.

Mr. FORBES. Mr. Chairman, I wish to reserve a point of order.

Chairman BOEHLERT. The Member has reserved a point of order. Mr. Hall may proceed with his amendment. The Clerk will report the amendment.

The CLERK. Amendment to H.R. 1085 offered by Mr. Hall.

Chairman BOEHLERT. I ask unanimous consent to dispense with the reading. Without objection, so ordered.

Mr. Hall is recognized for 5 minutes to offer his amendment.

Mr. HALL. Mr. Chairman, my amendment is straightforward. It consists of a series of provisions intended to address a number of the key issues raised by the Space Shuttle *Columbia* accident.

I would briefly like to describe these provisions. They are all related to ensuring the health and safety of the NASA workforce and the safety of the Space Shuttle program in general. First, the Gehman Board has highlighted problems with NASA's independent safety office, indicating that it has inadequate resources to provide the safety oversight needed by the agency, the funding and civil service personnel ceiling history of NASA's Office of Safety and Mission Assurance clearly shows a decline in both areas. And I ask unanimous consent that that history be entered into the record of this markup. And without objection, I hope you will do so.

Chairman BOEHLERT. Sir?

Mr. HALL. I ask unanimous consent that the funding and civil service personnel ceiling history of NASA's Office of Safety and Mission Assurance clearly shows the decline, I think, in both areas, but there would be people that could analyze it and say it is in decline or it is not in decline. I just simply ask unanimous consent that their—that history be entered into the record of this markup.

Chairman BOEHLERT. Without objection.

[The information follows:]

The NASA Office of Safety and Mission Assurance was established in December 1986.

Budget numbers are research and development funds that are managed by the Headquarters Office of Safety and Mission Assurance. They fund development of tools and processes pertaining to system safety, reliability, maintainability, non-destructive testing, quality assurance, software assurance, and risk management, as well as limited independent assessment of Centers and programs. The numbers do not include safety and mission assurance funding managed by NASA programs and Centers.

SAFETY & MISSION QUALITY

	Cumulative obligations	Cumulative disbursements
1986 .....	\$10,625,487	\$10,490,027
1987 .....	21,242,564	18,118,069
1988 .....	15,082,574	8,760,314
1989 .....	22,836,605	22,836,609
1990 .....	31,445,914	31,445,914
1991 .....	33,421,817	33,421,819
1992 .....	34,428,996	34,438,993
1993 .....	33,960,602	33,960,599
1994 .....	36,372,481	36,372,468
1995 .....	35,961,152	35,960,988
1996 .....	32,329,766	32,329,683
1997 .....	34,962,082	34,900,261
1998 .....	30,408,666	28,644,020
1999 .....	28,481,075	26,889,829
2000 .....	27,820,752	26,374,740
2001 .....	28,407,483	27,397,807
2002 .....	30,919,107	24,520,872
2003 .....	5,918,219	1,435,518

UPN budget for Safety & Mission quality is \$28.3M in FY 2003 and \$28.5M in FY 2004.

*Civil Service ceilings for the Office of Safety and Mission Assurance at NASA*

Fiscal year:	
1987 .....	64
1988 .....	68
1989 .....	73
1990 .....	82
1991 .....	82
1992 .....	86

*Civil Service ceilings for the Office of Safety and Mission Assurance at NASA—  
Continued*

1993 .....	72
1994 .....	83
1995 .....	64
1996 .....	50
1997 .....	44
1998 .....	40
1999 .....	40
2000 .....	40
2001 .....	42
2002 .....	43
2003 .....	47
2004 .....	47

Mr. HALL. All right. My amendment simply reverses that decline and helps to strengthen—I think we help to strengthen the Office of Safety and Mission Assurance. It also directs the NASA Administrator to provide Congress with a formal response to the Gehman Board’s safety-related findings and recommendations. I just don’t think that is asking too much. I think he ought to do that. He ought to want to do that. And I am hopeful that he will do that. We need to hear what NASA intends to do in response to the Board’s recommendations in this area.

Second, my amendment addresses a safety issue that I feel very strongly about, and that is an issue that other Members on both sides of the aisle have suggested. That is the need to provide a crew escape system for the astronauts that fly the Space Shuttle. I think we absolutely have to start addressing that. I think we have addressed it before. Their answer has always been it is either too heavy, the materials would not be workable, it is too expensive. When we are dealing with lives of youngsters, and if I had a son that was an astronaut, I am not sure I would want him flying in these four shuttles that we have left until we work out the absolute, without any question, causation of the last serious loss and tragedy that we had.

We need to provide crew escape systems for the astronauts, and my amendment provides a step in that direction. In the 17 years since the *Challenger* accident, NASA has done very little to address Space Shuttle crew escape. Buzz Aldrin has pushed for that. Others have pushed for that. It makes sense. It is something we ought to do. It is something we can’t say we don’t have enough money to do when lives are held certainly in constant fear of that that might happen. No one expected this accident that happened with the *Columbia*. No one could foresee the *Challenger* that was destined from its—from the takeoff from the rings that were frozen there. There is just something that we can do about things like that. And if we can’t preclude the happening or the causation of those serious accidents like that, we can do something about their opportunity to escape from it, to have some hope, some parachute that would let them down to the Earth as they have something that occurs up there.

In the past, their agency has argued that weight and cost impacts made it impractical. Well, I don’t think that the combined talents of NASA and the aerospace industry are incapable of rising to the challenge of coming up with a viable escape system. And that is all we are asking for. We need to collect the best ideas. And

after we have picked one, we need to move out and equip the remaining shuttle fleet with a crew escape system that can protect the entire crew, not just two of them or four of them as they say—some of them say they can do today. We ought to protect that entire crew.

Third, my amendment contains a provision that I think is just plain good common sense. The bill before us, as well as other legislation, would allow NASA to offer generous buyouts to the NASA employees. Early retirement for people that we probably need. Well, I think that before any buyouts are approved, the NASA Administrator needs to certify to this Congress that critical Space Shuttle and Space Station safety skills won't be lost. That would be a prudent step at any time, but it is even more important now with the Shuttle fleet facing a difficult return to flight status and the Space Station program limping along with the Shuttle fleet grounded.

Fourth, my amendment addresses another concern that has been raised by the Gehman report by the Board: the extent of contracting out and NASA's Space Shuttle program. Admiral Gehman has expressed his own concerns over NASA's level of dependence on contractors for important Shuttle functions, but we don't know what he is going to say, because we are going ahead with this legislation before we get his report. He has made indications of what is going to be in it, but we don't know. I don't want to prejudge what the Gehman Board is going to say in this area. However, I think it is important for this Committee to put the brakes on any additional contracting out beyond what already exists until we have heard from the Gehman Board on this issue as well as NASA's response.

Mr. Chairman, the loss of the Space Shuttle *Columbia* and its brave crew was a tragedy. I know it was a tragedy to you. It is a tragedy to Republicans and Democrats alike, to the American people. But it is up to this Committee to learn from that tragedy and to take measures to support the health and safety of the NASA workforce.

I hope that you and the other Members of this Committee will support this amendment. The Senate bill doesn't go far enough, and there have been efforts to try to say, "Well, we will just substitute the Senate bill." It excludes my amendment, and it doesn't go far enough. And any message should be safety in reporting. Nick Lampson's vision ought to be included in this for space human program. My crew escape thrust is just not in there, and it doesn't go far enough. Yes, it is better, I think, than what we have. I think it is better than what we are passing. But it is not good enough, and it doesn't assure those men and women that have bet their future. And when they are strapped to that missile, they bet their life that they are going to get to come back. Give them an even shot. Give them a way out if something happens that is unforeseen, and most accidents are unforeseen.

Thank you, Mr. Chairman. You have been kind and generous with the time. I yield back my time.

Chairman BOEHLERT. Thank you very much. The gentleman doesn't have any time to yield back, but because we were so anxious to hear what you had to say, we extended the time afforded

you. So thank you. I wish I could support this amendment, but both out of respect for Mr. Hall and for the issue it raises, I think I owe the Committee a full explanation in my reasoning for not supporting this amendment on this particular bill at this time.

The first portion of the amendment puts in place specific safety requirements. We have no idea, at this point, if the safety measures in the Hall Amendment are the right ones to pursue. We don't know if the Office of Safety should continue as it does now, how much money it should have, or how many people. And we are not alone in feeling at sea. The Appropriations Committee put off any discussions on those issues just yesterday, because of a lack of information. My Democrat friends keep saying we ought to wait until the Gehman Commission reports before taking up items on which Admiral Gehman will offer guidance. This safety provision is precisely the kind of item on which the Gehman Board will have plenty to say, and I couldn't agree more with the Democrats in their urging that we ought to wait until the Gehman Commission Report before addressing this area.

The concern with safety is one we all share. The sense that H.R. 1085 does not solve all of NASA's problems and that many, many more significant steps will have to be taken, we all agree with that. H.R. 1085 just takes care of some of the easy things. Major issues, such as how to ensure safety, need to wait for the Gehman Report. We can't be voting on these matters today if we are going to be fully informed.

The same can be said perhaps even more so about the crew safety provisions of this amendment. Is there anyone on this Committee on either side of the aisle that isn't concerned about crew safety? The answer is clearly no.

The other two sections of the Hall Amendment raise other issues. His third provision prevents the use of voluntary separation payments. We have already removed from the bill today through my amendment, any expansion of voluntary separation authority. This amendment would go further and prevent NASA even from using its authorities under current law. There is no indication that NASA is misusing its authorities and no reason to take NASA—to make NASA the only federal agency that cannot take advantage of current law.

The last provision in the amendment is a sweeping prohibition against contracting out. It is so broad that it might even prevent contracting out for some of the very studies that would be required by other Democrat amendments. I agree that NASA's contracting processes have to be examined, and they raise questions. This is one of the issues on which I am most interested in hearing from Admiral Gehman and the Columbia Accident Investigation Board. It is also the reason we rejected NASA's, what I think, is misguided proposal to create an industry exchange program. Contracting out is one of those issues on which we need more information. The language here is so broad that it could have unintended consequences. We don't even know what kinds of routine contracts might be let in the next few months that would be blocked by this amendment.

So I respect Mr. Hall and the issues he is raising. Those are issues that need to be raised. Those are issues this Committee needs to address. We will deal with these issues after the Gehman

Board reports in numerous hearings and in conjunction with that consideration of the authorization bill. Therefore, I reluctantly oppose the amendment, but I applaud Mr. Hall for bringing up these very important subjects. And I would ask that—is there any other Member who wishes to be heard on this amendment?

Mr. HALL. Would the gentleman yield?

Chairman BOEHLERT. I would be glad to yield to Mr. Hall.

Mr. HALL. In order that you have all of the information, I am sure you are aware of the fact that the buyouts are still in the Homeland Security Act and that this addresses that.

Chairman BOEHLERT. We—my statement said that, and we referred to it. We referred to that. The answer is yes, and the statement refers to that. Anything else, Mr. Hall?

Mr. HALL. Have you reconciled that? Do you understand what I am saying?

Chairman BOEHLERT. Yeah. Yeah. This amendment would go further and prevent NASA even from using its existing authority under current law. There is no indication that NASA is misusing its authorities and no reason to make NASA the only federal agency that cannot take advantage of current law.

Mr. HALL. Mr. Gordon.

Mr. GORDON. Go ahead.

Chairman BOEHLERT. Ms. Johnson.

Ms. JOHNSON. Just a simple question. Do you know when this report will be coming, when the Committee will hear it? How soon?

Chairman BOEHLERT. The tentative date now, Ms. Johnson, is August 26. The initial date was July 23, and when Mr. Hall and I had a lengthy meeting with Admiral Gehman and the *Columbia* Accident Investigation Board, as a matter of fact, 10 of the 13 Board Members were there. We had about a 3-hour meeting—

Ms. JOHNSON. August 26 while we are out?

Chairman BOEHLERT. Right.

Ms. JOHNSON. Who is he going to give it to?

Chairman BOEHLERT. Oh, the—they are going to give it to everybody. We are going to get it in a hurry, unless we are—

Ms. JOHNSON. We are still on recess.

Chairman BOEHLERT. I understand, but quite frankly, most of us spend a good share of recess working, and we don't get enough appreciation for the fact that—you know, so many people think that—when they look at the schedule that Congress begins—

Ms. JOHNSON. Well, all of us work—

Chairman BOEHLERT. Let us see. You have got this recess and you have got that recess. What are you people doing up there? You seem to spend almost as much time in recess as you do working. Those recesses, as a practical matter, and the gentlelady knows full well, really are mislabeled. They are district work periods, and most of us work in all of those recesses. And we all have families, and I will tell you this, I am going to take a week's vacation with my family. I hope you do, too.

Who seeks—Mr. Forbes.

Mr. FORBES. Thank you, Mr. Chairman.

Mr. Chairman, I have reserved a point of order, and now I will press the point of order. While the amendment has some good aspects, unfortunately, the amendment offered by the gentleman

from Texas is not germane to the bill, and I would ask the Chair's ruling on that.

Chairman BOEHLERT. Would the gentleman suspend for a moment? Would you defer it, because we want to give the majority—the minority side a chance to further comment on Mr. Hall's well-intentioned amendment?

Who seeks recognition? Mr. Gordon.

Mr. GORDON. I would have two comments, Mr. Chairman. First is, you know, I can't say that I disagree with your argument that we should wait for the Gehman Board before we proceed on these types of serious issues. I mean, I—again, I think that is the proper position. However, this seems like the last train out of town and the reason that we are trying to perform some good on this bill. Now as you know, we haven't had an authorization in a couple of years. Why is it going to be different this year?

Chairman BOEHLERT. You may consider this the last train, but it is not going very far. It is going out of this Committee right over to the Floor. And the Floor actually will be scheduled after we have the benefit of the Gehman Report, so we will have plenty of opportunity to deal with this, in a very meaningful way.

Mr. GORDON. So you are saying then that these issues then will be relevant and that we can—I guess you are saying on the Floor, and that we are going to go ahead and rush and pass this now, but that we can then raise these issues after Gehman comes back on the Floor on this bill?

Chairman BOEHLERT. As I have said repeatedly, Admiral Gehman is not going to be dealing specifically with the items contained in this narrowly defined bill. Now Mr. Hall wants to deal with something much broader, subject matter that I agree has to be dealt with in a very thorough, responsible manner. That should not prevent us from going forward with this narrowly defined bill to address a very real problem that exists right now and that we have an ability to address right now.

Mr. GORDON. Mr. Chairman, I understand your—I don't agree, but I understand your position. What I am asking is what will be the vehicle to address Mr. Hall's very legitimate safety issues?

Chairman BOEHLERT. We are going to have—the authorization bill is the natural vehicle, and we are going to be dealing with that.

Mr. GORDON. Even though we haven't dealt with it in a couple of years, you are saying we are going to get one done here?

Chairman BOEHLERT. Oh, sure. I have every intention of moving forward on the authorization bill. We would have had the authorization bill behind us—

Mr. GORDON. Well, one more—

Chairman BOEHLERT [continuing]. At this time in the legislative calendar except for the tragic moment at 8:59 a.m. on the morning of February 1. And that changed everything.

Mr. GORDON. One more question on the germaneness issue. As you know, Mr. Hall's amendment was a multi-part amendment. The first one was that NASA would report back to Congress on the recommendations of the Gehman Commission and what they are going to do about it. I would certainly assume that would be germane. Could I ask for that information, whether that would be ger-

mane, that aspect of the bill? The first provision? The first provision?

Chairman BOEHLERT. My leader here is guiding me. It also directs the NASA Administrator to provide Congress with a formal response to the Gehman Board's safety-related findings and recommendations. We have already done that in the bill.

Mr. GORDON. Is that accomplished in the bill?

Chairman BOEHLERT. Is that in the base bill?

The COUNSEL. It is in the En Bloc Amendment.

Chairman BOEHLERT. In the En Bloc Amendment, and we can refer to the specific language, if you want us to.

Mr. HALL. We are trying to find out what NASA would intend to do in response to the Board's recommendations, and you can't know that until we get the Board's recommendation.

Chairman BOEHLERT. Yeah, well, I agree with that. The Board has got to have recommendations.

Mr. HALL. And you know, how much time are we going to have with probably Congress adjourning early in, maybe, October?

Chairman BOEHLERT. You want to bet?

Mr. HALL. Yeah, I will bet.

Chairman BOEHLERT. All right. Let us have a wager. Is it legal in the District of Columbia to wager?

Mr. HALL. No, but we can go to Las Vegas and place your bet.

Chairman BOEHLERT. The fact of the matter is I think we all are pretty well acclimated to the basic logical response that we are not going to be out of here early October.

Mr. HALL. Mr. Chairman, would you continue with the gentleman from Tennessee's—

Chairman BOEHLERT. We will continue with the gentleman—

Mr. HALL [continuing]. In the event I drop part of my amendment, your attitude on holding the other part germane. For example, if I would drop everything except the crew escape, and nobody can differ on that, where would you be? That would certainly be germane, wouldn't it?

Chairman BOEHLERT. But it isn't germane. Yeah. No, it isn't germane on a workforce reauthorization bill. Look. You know and I know all of the conversations we have had informal and formal with—before the world and in a Committee hearing where we have recorders here that we are both vitally interested in crew escape and we want to do everything humanly possible to deal with it. But this is not the vehicle to deal with that. We are going to deal with that after the Gehman Commission Report. We are going to deal with that in the reauthorization. Part of the problem in this town is that too many people just rush to judgment in a whole wide range of areas before thinking it through thoroughly. I want the best possible review and analysis of a crew escape vehicle. I want not a seat of the pants judgment. I want something that is documented and that has been thoroughly vetted with a whole wide variety of experts who can give us the best possible opinion.

What I am trying to do today, and I think the gentleman knows full well, is move forward with a narrowly targeted bill to address a very real problem that exists at NASA today as we are deliberating. We can do that. The items you raise in your comprehensive amendment, though not germane to this bill, are very impor-



tant to the overall program. And I certainly want to work cooperatively with the gentleman to address items like safety, crew re-entry, escape vehicles, and that type of thing.

Anyone else seek to be recognized?

Mr. GORDON. Mr. Chairman, if I could, just for a point of clarification, again, I really am not trying to be argumentative. Again, we didn't get this bill until 7:15 last night. You may have covered it. You know, what I am asking may—

Chairman BOEHLERT. No, that has nothing to do with it, quite frankly.

Mr. GORDON. Well, no, okay. Again, I just want information, because you may have covered it. A part of Mr. Hall's amendment said that within 60 days after the date of enactment of this act, the Administrator that is of NASA shall submit to the Committee on Science of the House of Representatives and the Committee of Commerce and Transportation a response to the findings and recommendations of the Columbia Accident Investigation Board relating to the safety and mission assurance. Again—

Chairman BOEHLERT. I have already said to the gentleman, and the gentleman's time is expired, and the Chair is being generous because we enjoy this colloquy in terms of enlightenment, but I have already pointed out, that is incorporated in the En Bloc Amendment.

Mr. GORDON. And could—again, I am not trying to be argumentative. We can't find it. Just tell us where it is so we can read it, if you don't mind. Again, I don't want to be argumentative, I am just—you know, I think this is something—

Chairman BOEHLERT. All right. If you would look at the En Bloc Amendment. In paragraph nine, line one through line six, "Any reforms to the Administration's workforce management practices recommended by the Columbia Accident Investigation Board, the extent to which those recommendations were accepted, and if necessary, the reasons why any of these recommendations were not accepted." That, to me, is pretty clear.

Mr. GORDON. Okay. That is just part. We are asking for safety and mission assurance, also.

Chairman BOEHLERT. Those are not germane to this bill. We are dealing with workforce restructuring—

Mr. GORDON. Okay.

Chairman BOEHLERT [continuing]. To deal with a very real problem here and now. That is not to say that the subject matter you are bringing up does not deserve the fullest possible airing of all views and our undivided attention. It is not the vehicle here and now that we are discussing. It is another time, another vehicle, another place that doesn't denigrate or lessen, in any sense of the word, the importance of the subject matter that Mr. Hall is bringing up in his amendment and you, not to be argumentative, are arguing very persuasively for it.

Now is there anyone else that seeks recognition?

Mr. HALL. Mr. Chairman, I am not really—

Chairman BOEHLERT. I will go with—now wait a minute. I will go with Mr. Lampson.

Mr. LAMPSON. Thank you, Mr. Chairman.

I just wanted to associate myself with the remarks made by both the Ranking Member Mr. Hall and the Ranking Member on the Space Subcommittee, Mr. Gordon. I think that if anyone leaves this meeting, they should leave with the feeling that our utmost concern does have to do with the safety of the folks who are involved with our exploration in space and that they have a feeling that we are concerned and express every interest in a real future for our space involvement, a vision, a set of goals, something that people can latch on to and realize that there is going to be a long-term future for NASA. That, to me, is what makes a difference in having people want to join that workforce and to be comfortable in knowing that they are going to be able to come back to their families at the end of the day and not having lost anything.

We say, too often, that we want to do something. It seems to me that this amendment presents an opportunity for us to do something. When are we going to act? I believe that we should act on this and include this measure in there. And then if there are problems with it, then we can also fix them when we get to the Floor.

Chairman BOEHLERT. Well, the gentleman should note that we have already accepted Ms. Jackson Lee's outstanding amendment that enriched the bill and that focuses on safety. We don't want to compromise safety at all. I mean, everybody raise their right hand and take the pledge, "I will not, in any way, compromise safety." That is not the subject for discussion here. The Chair is very patient. What I am trying to emphasize, and I will say it again and again and again until somehow we begin to appreciate what we are dealing with is a very real problem that exists here and now in terms of NASA's workforce. We are trying to respond to that problem by giving the agency the authority to do some things we think will help them solve the problem they have with their workforce.

We are not using this vehicle to reauthorize NASA. We are not using this vehicle to determine whether or not we want to compromise safety or give it added emphasis or determine how many employees are going to be in which section of the agency. We are only dealing with a very narrowly targeted bill to address a real problem.

There are other problems in NASA. We all can agree on that. Safety is first and foremost. We have already all agreed to that. A crew escape mechanism is something that we are all vitally interested in. Let me point out this fall when we get back from our recess, I hope we are all well rested and ready to go, because we are going to be spending a lot of time in this room and these hallowed halls dealing with hearings from getting the input from experts on all of the various subjects covered in Mr. Hall's amendment.

Now is there anyone else who seeks recognition on the amendment? Mr. Bell.

Mr. BELL. Thank you, Mr. Chairman.

The distinguished Chairman states that he wishes he could support Mr. Hall's amendment but, for various reasons, cannot. And so my suggestion to my friends on the other side of the aisle would be to satisfy the Chairman's wishes by going ahead and supporting the amendment and then allow him to live vicariously through you.

The—it is an incredibly important amendment. And I am—in all seriousness, would agree with the Chair that on February 1, every-

thing did change, that in the wake of the tragedy, we now have an opportunity to perhaps find a silver lining and that NASA can redefine its mission, refocus its mission, and certainly dedicate itself anew to safety. I find the timing of this legislation, along with a number of my colleagues on this side of the aisle, to be rather confusing and somewhat curious. I have had an opportunity to visit with Admiral Gehman, as I know many Members of the Committee have. And he has made it very clear that the report and—to be brought forth will be fairly wide in its scope and will not just focus on the causes of the tragedy but will be making suggestions as to how to improve the overall operations of NASA.

If our goal today is to try to be proactive instead of reactive to the Gehman Report, it seems like we would do our best to anticipate what is going to be included in that report, what is going to be suggested in that report. And we all know that it is no big secret that one of the major points of emphasis is going to be safety. Therefore, it would seem to follow that if we are going to say we are going to do as much as humanly possible, then we are going to do as much as humanly possible. And Mr. Hall has brought forth very specific and important recommendations as to how, at this juncture, to go about improving the safety of the operations at NASA. So instead of just talking about it and saying that we can all take a pledge that we are committed to the safety of this agency, it seems like we can actually demonstrate that by our actions here today and support Mr. Hall's amendment instead of just finding a way to keep it from being heard. And that would be my advice, Mr. Chair, and I would hope that you would take it under serious consideration.

Chairman BOEHLERT. Thank you very much, Mr. Bell.

The Chair recognizes Mr. Forbes.

Mr. FORBES. Thank you, Mr. Chairman.

Mr. Chairman, I would just restate my point of order that I believe that the amendment from—offered by the gentleman from Texas is—

Chairman BOEHLERT. The Chair is ready to rule. The gentleman raising the point of order is correct. The amendment is not germane and is out of order, because the bill deals with recruitment—

Mr. HALL. Mr. Chairman.

Chairman BOEHLERT. Let me finish my statement. Deals with recruitment—

Mr. HALL. Let me start mine.

Chairman BOEHLERT. Well, the gentleman has already been heard not once, but several times on the issue. And if we are going to sit here all day and all night, we will never get to that summer recess that Ms. Johnson and I both want.

So the bill deals with the recruitment in personnel matters, and the amendment goes beyond that subject matter.

Ms. JACKSON LEE. Mr. Chairman.

Mr. HALL. Mr. Chairman, am I allowed to talk on my amendment now, the germaneness of it?

Chairman BOEHLERT. You certainly are.

Mr. HALL. We are not really talking about timing or whether these amendments ought to stand alone, these points that I made there. We are talking about germaneness. Now how can you say

that this amendment is not germane at this time? You may not agree with it being brought up at this time, but by adopting the Boehlert En Bloc Amendment with provisions relating to safety, you use that word safety, and the CAIB, Mr. Boehlert, you opened up the subject matter for germaneness purposes. It is germane. I don't think there is a court in the land that wouldn't call this germane.

Also, if the Chairman will concede that astronauts are a part of the workforce, my amendment ought to be germane. Safety—certainly safety makes this amendment germane. Ask a question. Would you feel safe sending the four remaining vehicles up as is? I think not. Question: Should the priority be given to getting people their bonuses faster or to improving the safety of the shuttle crews as soon as possible? Mr. Chairman, I would strongly argue that the amendment is germane. Give us a vote. You may vote us down but just not on germaneness, not on a technicality. It is too important. This bill broadly focuses on the general subjects of NASA workforce authorities. Surely amendments concerning the safety of the NASA workforce and the administration of NASA as it affects the welfare of the workforce, or more precisely, as personnel are certainly in order. And this is—really is a germane subject. Go on and vote us down. You have got the votes to do that, but I think there are people over on your side that think we ought to certainly make some inquiries of NASA, give them some nudging. Give them some nudging.

Chairman BOEHLERT. Does the gentleman appeal the ruling of the Chair, because the Chair has already ruled?

Mr. HALL. I don't want to do that. I am asking the Chairman to reconsider and give us—

Ms. JACKSON LEE. Can I speak?

Mr. HALL [continuing]. A vote on it. I do think it is germane. I don't think it is a question of whether or not it is germane.

Chairman BOEHLERT. The Chair has ruled, and now the next procedure and—

Mr. HALL. Then, Mr. Chairman, I appeal the ruling of the Chairman. I don't like to do that.

Mr. FORBES. Mr. Chairman, I move to table the appeal, Mr. Chairman.

Chairman BOEHLERT. The question is on the motion to table the appeal. All in favor, say aye.

Ms. JACKSON LEE. Mr. Chairman, are you cutting off debate?

Chairman BOEHLERT. Opposed, no. The ayes have it. The motion to appeal—

Mr. HALL. Mr. Chairman, I ask for a recorded vote.

Chairman BOEHLERT. The Clerk will call the roll.

The CLERK. Mr. Boehlert?

Chairman BOEHLERT. No.

The CLERK. Mr. Boehlert votes no. Mr. Lamar Smith?

Mr. SMITH of Texas. Whoa. Whoa. Whoa. Mr. Boehlert, you just voted against yourself.

Chairman BOEHLERT. Yes.

Mr. HALL. I move that the voting close.

The CLERK. Mr. Boehlert votes yes. Mr. Lamar Smith?

Mr. SMITH of Texas. Yes.

The CLERK. Mr. Smith votes yes. Mr. Weldon?  
Mr. WELDON. Aye.  
The CLERK. Mr. Weldon votes yes. Mr. Rohrabacher?  
Mr. ROHRABACHER. Yeah.  
The CLERK. Mr. Rohrabacher votes yes. Mr. Barton?  
Mr. BARTON. Yes.  
The CLERK. Mr. Barton votes yes. Mr. Calvert?  
Mr. CALVERT. Yes.  
The CLERK. Mr. Calvert votes yes. Mr. Nick Smith?  
Mr. SMITH of Michigan. Yes.  
The CLERK. Mr. Smith votes yes. Mr. Bartlett?  
Mr. BARTLETT. Yes.  
The CLERK. Mr. Bartlett votes yes. Mr. Ehlers?  
Dr. EHLERS. [No response.]  
The CLERK. Mr. Gutknecht?  
Mr. GUTKNECHT. [No response.]  
The CLERK. Mr. Nethercutt?  
Mr. NETHERCUTT. Aye.  
The CLERK. Mr. Nethercutt votes yes. Mr. Lucas?  
Mr. LUCAS. Aye.  
The CLERK. Mr. Lucas votes yes. Mrs. Biggert?  
Mrs. BIGGERT. Yes.  
The CLERK. Mrs. Biggert votes yes. Mr. Gilchrest?  
Mr. GILCHREST. Yes.  
The CLERK. Mr. Gilchrest votes yes. Mr. Akin?  
Mr. AKIN. Yes.  
The CLERK. Mr. Akin votes yes. Mr. Johnson?  
Mr. JOHNSON. Yes.  
The CLERK. Mr. Johnson votes yes. Ms. Hart?  
Ms. HART. Yes.  
The CLERK. Ms. Hart votes yes. Mr. Sullivan?  
Mr. SULLIVAN. [No response.]  
The CLERK. Mr. Forbes?  
Mr. FORBES. Yes.  
The CLERK. Mr. Forbes votes yes. Mr. Gingrey?  
Mr. GINGREY. Yes.  
The CLERK. Mr. Gingrey votes yes. Mr. Bishop?  
Mr. BISHOP. Yes.  
The CLERK. Mr. Bishop votes yes. Mr. Burgess?  
Mr. BURGESS. Yes.  
The CLERK. Mr. Burgess votes yes. Mr. Bonner?  
Mr. BONNER. Yes.  
The CLERK. Mr. Bonner votes yes. Mr. Feeney?  
Mr. FEENEY. [No response.]  
The CLERK. Mr. Neugebauer?  
Mr. NEUGEBAUER. Yes.  
The CLERK. Mr. Neugebauer votes yes. Mr. Hall?  
Mr. HALL. No.  
The CLERK. Mr. Hall votes no. Mr. Gordon?  
Mr. GORDON. No.  
The CLERK. Mr. Gordon votes no. Mr. Costello?  
Mr. COSTELLO. No.  
The CLERK. Mr. Costello votes no. Ms. Johnson?  
Ms. JOHNSON. No.

The CLERK. Ms. Johnson votes no. Ms. Woolsey?  
 Ms. WOOLSEY. No.  
 The CLERK. Ms. Woolsey votes no. Mr. Lampson?  
 Mr. LAMPSON. No.  
 The CLERK. Mr. Lampson votes no. Mr. Larson?  
 Mr. LARSON. No.  
 The CLERK. Mr. Larson votes no. Mr. Udall?  
 Mr. UDALL. No.  
 The CLERK. Mr. Udall votes no. Mr. Wu?  
 Mr. WU. No.  
 The CLERK. Mr. Wu votes no. Mr. Honda?  
 Mr. HONDA. No.  
 The CLERK. Mr. Honda votes no. Mr. Bell?  
 Mr. BELL. No.  
 The CLERK. Mr. Bell votes no. Mr. Miller?  
 Mr. MILLER. No.  
 The CLERK. Mr. Miller votes no. Mr. Davis?  
 Mr. DAVIS. No.  
 The CLERK. Mr. Davis votes no. Ms. Jackson Lee?  
 Ms. JACKSON LEE. No.  
 The CLERK. Ms. Jackson Lee votes no. Ms. Lofgren?  
 Ms. LOFGREN. [No response.]  
 The CLERK. Mr. Sherman?  
 Mr. SHERMAN. No.  
 The CLERK. Mr. Sherman votes no. Mr. Baird?  
 Mr. BAIRD. No.  
 The CLERK. Mr. Baird votes no. Mr. Moore?  
 Mr. MOORE. No.  
 The CLERK. Mr. Moore votes no. Mr. Weiner?  
 Mr. WEINER. [No response.]  
 The CLERK. Mr. Matheson?  
 Mr. MATHESON. No.  
 The CLERK. Mr. Matheson votes no. Mr. Cardoza?  
 Mr. CARDOZA. No.  
 The CLERK. Mr. Cardoza votes no.  
 Chairman BOEHLERT. How was Mr. Weldon recorded?  
 The CLERK. Mr. Weldon of Pennsylvania is recorded as yes.  
 Chairman BOEHLERT. How is Mr. Ehlers recorded?  
 The CLERK. Mr. Ehlers is not recorded.  
 Dr. EHLERS. Yes.  
 The CLERK. Mr. Ehlers votes yes.  
 Chairman BOEHLERT. The Clerk will report.  
 The CLERK. Mr. Chairman, yes, 22; no, 19.  
 Mr. BARTON. Mr. Chairman, could I strike the words?  
 Chairman BOEHLERT. The gentleman is recognized for 5 minutes.  
 Mr. BARTON. Briefly. Briefly.  
 Chairman BOEHLERT. Yeah.  
 Mr. BARTON. This Committee has had a long history of bipartisanship. I am looking up at these paintings, Mr. Brown, and Mr. Rowe, and Mr. Teige, Mr. Sensenbrenner, and Mr. Walker. I don't—and I don't think we are going to, but I certainly don't want the Science Committee to become what has happened over in the Ways and Means Committee. And had we had a policy vote, I would have voted with Mr. Hall on the policy. But you are the

Chairman, and I think we should always vote, those of us in the Majority, to support the Chairman on procedural grounds. But I certainly hope that you meant it when you told Mr. Hall that you would work with him on the policy issues in the authorization bill that is coming, because I think the issues that Mr. Hall raises are extremely important issues. And this Committee should address those issues in a bipartisan way. And I know you have a long history of bipartisanship. And I just want to encourage you to honor your commitment to Mr. Hall at the appropriate vehicle.

Chairman BOEHLERT. Thank you very much. That is a commitment I fully intend to honor. Mr. Hall and I have enjoyed, from the moment I assumed this Chair, the best possible relationship. And those who are in the audience should observe the manner in which we are proceeding. We have strong differences of opinion being expressed up here, but midway through the deliberations, Mr. Hall brought me a nice piece of candy. Somebody else said, you know, we have got to finish this by 5:30, because we have got to get to Mr. Hall's fund-raiser, and that was not from a Democrat, it was from a Republican.

The point is, we may disagree but we don't—we are not disagreeable, and this Committee is not going to change. And this Committee allows people to be heard. And Mr. Barton, as I stressed to you, I couldn't agree more with the importance of the subject matter addressed in the Hall Amendment. And we are going to deal with that in a very responsible way. We are just saying not this vehicle, not this time.

Ms. JACKSON LEE. Mr. Chairman.

Chairman BOEHLERT. This is a very narrowly defined vehicle. And we are going to move forward to deal with a very real problem in a meaningful way involving the workforce, then we are going to proceed to deal with all of the other things, as Mr. Hall rightfully pointed out, deserve our undivided attention to—

Mr. BARTON. Thank you. And I yield back my time, Mr. Chairman.

Ms. JACKSON LEE. Mr. Chairman.

Chairman BOEHLERT. Thank you very much.

Ms. Jackson Lee.

Ms. JACKSON LEE. I move to strike the last word.

Chairman BOEHLERT. The gentlelady is recognized.

Ms. JACKSON LEE. Thank you very much, Mr. Chairman.

I would like to certainly acknowledge the Chairman's graciousness in accepting the amendment that I offered, but I am disappointed when I was conspicuous enough to want to speak on the amendment that I was not acknowledged to be able to participate in the debate. So I will take this time to say that I disagree with the Chairman's position and the ruling of the Chair. We have lost the vote, but let me offer these words on the record.

First of all, we are dealing with workforce. Crew equals workforce. The crew are employees of NASA, and so I believe that the ruling was incorrect.

Secondarily, I would say, Mr. Chairman, for those of us who live in the community, if you look at the article that I have submitted into the record, the investigator said that they interviewed 200 people anonymously because people are in fear of telling the truth.

Thank goodness that they have been interviewed anonymously. There is a major culture change that NASA needs to experience. The cavalier attitude that they had on the question of safety is an enormous challenge for all of us.

And what I would say that even though Dr. Martin Luther King is not a space expert who—in his lifetime and certainly not in his death, he wrote a book, “Why We Can’t Wait”. And I believe that is an appropriate statement for what we did not do today. We cannot wait, because there is a terrible culture at NASA that needs to be changed. Mr. Hall’s legislation or amendment suggested that we have 86 individuals put in the safety unit. There is nothing non-germane with that. That has to do with workforce. He also suggested an authorization of \$50 million if I am reading that correctly. And I would only say that we are making a terrible mistake by waiting, because this bill—this amendment does not put in permanent concrete. It has flexibility. What it says to NASA is that they should begin to look at these issues now, and in particular they should not outsource very vital safety questions.

And let me say this, Mr. Chairman, being on this Committee since I came to this Congress, I know that I can go through the record and cite any number of times that collectively we have all spoken about safety. And I can also cite specific times that I have raised the question to the extent of being at odds with a number of chairpersons on this Committee, not you, but a number of them that didn’t think that this was a serious issue. It is serious. And for those of us who have had one on one contacts with the astronauts, friends of ours, who say, “Come talk to me off the record.” This is a disaster waiting to happen if we do not address the safety question now and not later.

And so I am sorry and disappointed that we found that Mr. Hall’s very thoughtful amendment was not germane. I am certainly appreciative of the Committee’s willingness to accept the amendment that I offered. By my friends, I warn you. Yeah, we are waiting on the Gehman Report. We have got all of the loyalty of the United States of America, because the public says, “We like human space shuttle.” But I tell you that you have a culture that needs to be changed. And the right thing for us to do today was to send a message to NASA that we will not let up on safety and that we will start thinking about safety now when we should have thought about it right after Challenger. We didn’t do anything about that, and we lost the lives of wonderful husbands, wives, parents. People are still mourning, and yet we don’t want to act on Mr. Hall’s amendment.

I think, as a bipartisan Committee, we could have done better than that. And I want to thank Mr. Smith for his bipartisan peanuts that I have just eaten, hoping that I would have a bipartisan spirit, but safety is such a crucial issue, we should have sent a notice out today that we are not fooling around with safety, passing Mr. Hall’s amendment. And I am disappointed that the ruling was so rendered. I would ask for reconsideration of the Chairman’s ruling.

Chairman BOEHLERT. I thank the gentlelady for her comments. The next amendment is amendment number eight offered by Ms. Eddie Bernice Johnson.



Mr. GORDON. Mr. Chairman, if I could strike the last word, and I will bring closure to this and—

Chairman BOEHLERT. Mr. Gordon is recognized.

Mr. GORDON. Because we are—at least my closure, because we are beating a dead horse here.

I have no—we are past—we know we are going to go forward with this. Mr. Barton has made it clear that we all want to deal with this issue of safety later. I just want to point out—and again, let us go forward, but I want to point out that at the end of this week, we are going to be out until September. The schedule says that the—get out before Columbus Day. So we are on a short time limit. NASA says they want to launch again before the year is over, and if not, they want to launch early next year. And if they don't launch by, I guess, February or so, then we really have a problem in terms of the Space Station. And you know we don't get much done in January and February.

So let us just keep these things in mind. I don't—I mean, I know you are sincere about going forward. I just lay this calendar out so that we can keep it in mind. And I don't need a response. I just wanted to lay that out.

Thank you.

Mr. HALL. Mr. Chairman.

Chairman BOEHLERT. Thank you very much.

Mr. Hall.

Mr. HALL. I would like to really and truly strike the last word.

Chairman BOEHLERT. Mr. Hall is recognized.

Mr. HALL. We have voted, and we have been outvoted and outvoted and outvoted 22 to 19 several times. And it came pretty close one time on a tie vote, but I think we are all of one accord about safety. I don't question anybody's judgment on safety. My God, we pray for these people. We cry for them when we lose them. We appropriate for them as a—youngsters coming up in the program. I think we need to really address crew safety, so although I know from my early raisings on the ranching farm back in Texas that you don't ever rope a yearling when they are running downhill. And you are running downhill right now. You are winning. Every time we look up, we get 22 to 19. But I believe it is unanimous in this Committee that we want to address safety. I am going to have an amendment just a little bit later for our crew safety and give us a chance to vote on that. I hope you will support that.

I yield back my time.

Chairman BOEHLERT. Thank you very much, Mr. Hall.

Now the Chair recognizes Ms. Eddie Bernice Johnson from Texas for amendment number eight. Are you prepared?

Ms. JOHNSON. Yes, Mr. Chairman.

Chairman BOEHLERT. All right. The Clerk will report the amendment.

The CLERK. Amendment to H.R. 1085 offered by Ms. Eddie Bernice Johnson of Texas.

Chairman BOEHLERT. I ask unanimous consent to dispense with the reading. Without objection, so ordered.

Ms. JOHNSON is recognized for 5 minutes to offer her amendment.

Ms. JOHNSON. Thank you, Mr. Chairman. This amendment provides for a sense of Congress that NASA should conduct a con-

tinuing program for the recruitment of minorities and women to eliminate the under-representation in the various categories of civil service. We know that NASA is very short of qualified staff and the pool to draw them is getting slimmer. And yet if we would use much of what is available, we would probably be in a little bit better shape. And Mr. Chairman, I understand that you accepted this amendment?

Chairman BOEHLERT. Yes, I have. I think it is a good amendment, and I am proud to identify with it.

Ms. JOHNSON. Thank you, Mr. Chairman.

Chairman BOEHLERT. Is there anyone else who seeks recognition?

If not, the vote is on the amendment. All in favor, say aye. Opposed, no. The ayes have it, and the amendment is agreed to.

The next amendment on the roster is amendment number nine offered by Mr. Gordon from Tennessee.

Mr. GORDON. Thank you, Mr. Chairman.

I have an amendment at the desk.

Chairman BOEHLERT. The Clerk will report.

Mr. GORDON. Mr. Chairman, I believe this amendment should be non-controversial, but what I would—

Chairman BOEHLERT. Let the Clerk report.

Mr. GORDON. Okay. Excuse me.

The CLERK. Amendment to H.R. 1085 offered by Mr. Gordon.

Chairman BOEHLERT. I ask unanimous consent to dispense with the reading. Without objection, so ordered.

Mr. Gordon is recognized.

Mr. GORDON. Thank you, Mr. Chairman. I think this amendment will be non-controversial. I suggest everybody take a deep breath of air. I would also suggest that all of those Members that have a NASA facility in their district or close by listen carefully to this. I think you will be interested about this amendment.

Basically, my amendment is intended to ensure that NASA does the assessment and planning necessary to ensure that it has both the workforce and the infrastructure needed to carry out its human space flight programs over the coming years. It is also intended to ensure that Congress has the information it needs to make sure that NASA has the appropriate level of resources.

This amendment is consistent with what I thought NASA would be providing to Congress as a result of the Strategic Resource Review. NASA was directed to do an agency-wide review of its workforce and infrastructure needs and capabilities by the Office of Management and Budget as well as by the Appropriation Committee. I believe that such information is essential if Congress is to evaluate the potential workforce legislation as well as judge the likely NASA resource requirements we will be looking for over the next decade.

I was therefore concerned to learn at our Subcommittee hearing last year that the Strategic Resource Review had been closed down by NASA with little to show for it. The questions that should have been addressed by the Strategic Resource Review are still important and relevant, and Congress still needs information if it is to carry out its responsibilities.

For example, in response to a written question that I submitted to NASA after the February 27 hearing, the NASA Administrator acknowledged that, and I quote, "The fiscal year 2004 budget proposal shows a decreasing civil service workforce in FTE run out through fiscal year 2008." That leads to the obvious question: why is NASA projecting a decrease in the civil service workforce? Is NASA planning to outsource even more of its jobs over the next 5 years in spite of concerns expressed by Admiral Gehman over contracting out in the shuttle program? Or is NASA planning to do fewer projects, close facilities, or otherwise scale back its activities? Congress needs to have answers to those questions.

And while I am concerned about the workforce and infrastructure needs of the entire agency, I think that the Columbia accident has made it clear that we need to focus particular attention at this program—at this time on the future requirements of the human space flight program.

As a result, I have structured my amendment to direct NASA to do a Strategic Resource Review for all of NASA's human space flight activities. Congress needs NASA to tell us what its human space flight goals are in the future as well as what the workforce and infrastructure, let me say that again, infrastructure requirements are to achieve these goals. You cannot have the best workforce in the world—you can have the best workforce in the world, but if you don't provide the necessary tools and facilities, they aren't going to be able to achieve their goals that you have set before them.

If we are interested in helping to attract and retain the best NASA workforce to meet our human space flight goals, we need to make sure that the infrastructure is there to support them, whether it is at Cape Kennedy, Marshall Space Flight Center, Johnson Space Center, or wherever else the work may be done. I think, Mr. Chairman, that my goal tries to achieve that.

And let me say, Mr. Chairman, finally that as you are painfully aware, I have raised concerns about timeliness earlier. Let me admit that here I am a failure. Although you have had this amendment, I wanted—I have submitted a different amendment at the desk. Originally, this amendment said that you could not go forward with this workforce flexibility act until we received the report back from NASA on the Strategic Resource Review. I did that because we need some reason, or you know, way to get NASA to make this important report. I took that out, and so there is nothing dilatory here at all. This is a straight request that they simply give us a resource review of what is the infrastructure needs to carry out the goals of our human space flight.

Mr. Chairman, I think this is reasonable, and I apologize for the late change, but it was done in an effort to try to make it more palatable to you and this Committee.

Chairman BOEHLERT. Thank you very much.

The Chair reluctantly opposes this. The issues that this amendment raises, 20-year goals for human space flight and infrastructure needed to support those goals, along with the necessary NASA workforce levels, are exactly the issues that should be raised in a very meaningful way and discussed in a very meaningful way when considering NASA's reauthorization.

NASA is asked to address its workforce shortfalls and workforce levels, as the amendment calls for, when NASA is to report on the agency's critical needs in the workforce plan already required in H.R. 1085. More reports, more reports, more reports. We have already got a requirement in H.R. 1085. And we should deal with this in a very substantive way when we deal with the reauthorization.

Is there anyone else who seeks to be heard on the amendment?

Mr. HALL. Mr. Chairman, I would like—

Mr. GORDON. Really, what we are doing here is asking for a report that NASA has refused to do even though OMB requested it, even though the Appropriations Committee requested it. And so although this bill may ask for some type of resource review concerning personnel, it does not talk about the infrastructure that is needed so that that personnel can do its job. Ask the folks at Kennedy. Ask the folks at Johnson whether they are—they feel that those resources, those infrastructure resources are adequate. I think you will find they will say not, but we need to know where we are going to go with it.

Chairman BOEHLERT. That report, incidentally, was completed by NASA in August 2002. And it is my understanding that both sides have received the report.

Mr. GORDON. Mr. Chairman, I will remind you that we had a hearing with Administrator O'Keefe where I specifically asked that question. I said Mr. O'Keefe, when you were at OMB, your own OMB requested this report. The Senate Appropriations Committee requested, or I guess I should say, you know, required it. He came back at that hearing before us and said that they weren't doing a good job and so they weren't going to have to continue with it. So we do not have that report, and—

Chairman BOEHLERT. The hearing was before the final report came out. Subsequent to that hearing, which Mr. O'Keefe testified, the hearing—the report was issued. And the Majority and Minority have both received that.

Mr. GORDON. Right. We have received it, and Mr. O'Keefe himself has said that it was not adequate and that he was not going to go forward with it. So we do not have that fulfilled report.

Chairman BOEHLERT. There are a number of things going on at NASA that I think we could all agree, and are more—

Mr. GORDON. This was—

Chairman BOEHLERT. That are not adequate. But the fact of the matter is we are dealing with one narrow focus on workforce restructuring, and this is a bill that deals with it in a substantive way to address the problem that has been identified. That does not mean that the other problems being discussed here, the other concerns being discussed here, whether it is safety, or crew escape mechanisms, all of those things are vitally important. But we are not going to do everything in one narrowly focused bill to deal with a very real problem. And so I would suggest—

Mr. ROHRBACHER. Mr. Chairman.

Chairman BOEHLERT. Mr. Rohrabacher.

Mr. GORDON. Is it your time or my time?

Chairman BOEHLERT. No, your time has already expired.

Mr. GORDON. Oh, okay.

Chairman BOEHLERT. Mr. Rohrabacher.

Mr. ROHRABACHER. I would note that Mr. Gordon and I—Mr. Lampson's amendment later on are an attempt to try to prod NASA into making some long-term assessments that they just aren't doing. And quite frankly, we have got to make sure that we deal with the NASA bureaucracy in a much more, how do you say, officious way, because we are the public officials who are elected to set policy for the public on this great—in this—for NASA and this great asset for the United States. And quite frankly, I think Mr. Gordon and Mr. Lampson have—are well motivated and what they are suggesting—now your point Mr. Chairman is it shouldn't be on this bill. And—

Chairman BOEHLERT. May the gentleman yield?

Mr. ROHRABACHER. Sure. Certainly.

Chairman BOEHLERT. I have never once doubted the good intentions and the proper aspects of the motivation of Mr. Gordon and Mr. Lampson. They are valued Members of this Committee. They contribute constructively on every single measure that we consider, whether it is NASA or a whole wide range of other activities that come before this Committee.

Mr. ROHRABACHER. I will—let me suggest that I have been in various Committees, this one included, where sometimes a bill is going through and we actually had something on the bill that wasn't totally in keeping with the long—with the specific purpose of the bill. But it was made part of the bill in order to help set policy for NASA. So I would back up the Chairman in any decision that he makes, but I would think that it is not totally—I would just say that Mr. Lampson and Mr. Gordon have some points that wouldn't be unwelcome in the legislation.

Chairman BOEHLERT. Would the gentleman yield?

Mr. ROHRABACHER. Yes, sir.

Chairman BOEHLERT. No doubt about it. And I would suggest we deal with that in report language in a very meaningful way. Let me point out, we are going to get this—we are not the only actors in this drama. We—I think we are the most responsible ones, but there are other Committees involved, and this has been a long process and very delicate negotiations. And you know how some of our colleagues can be.

I mean, can you imagine some of the other Committees having a markup as—like this as contentious as it is in certain substantive ways and yet everybody is smiling and complimenting each other? And we are doing it the way it should be done. But—so I would suggest that the comments of Mr. Gordon and Mr. Lampson and what their amendments propose to do and much of what Mr. Hall proposes to do we write a very strong report.

Mr. ROHRABACHER. Well, I am reclaiming my time but just suggest that we all appreciate that you don't have the cattle prod mentality of some chairmen, but maybe we need to use the cattle prod on the NASA bureaucracy sometimes. And I think this is what this attempt is to do.

I yield back the balance of my time.

Chairman BOEHLERT. Thank you very much.

Mr. LAMPSON. Mr. Chairman, would you yield for a short question?

Chairman BOEHLERT. Who is—who seeks recognition? Yes, Mr. Lampson?

Mr. LAMPSON. Would this amendment that is offered by Mr. Gordon detract from anything within your bill that you are intending to try to accomplish?

Chairman BOEHLERT. Yeah. No. It presents problems as we deal with the other Committees, because the—you know, things that have several Committees with overlapping jurisdiction don't just come together neatly as we all would like. You know, there are turf battles and everything else. We don't have battles in this Committee. I mean, we work across the center aisle, and we try to fashion a reasonable compromise. And if we didn't have any other Committee to be concerned about, much of what has transpired previously today would not have been necessary. But we have other Committees that we have to deal with. And so I like to deal with reality. I mean, the world is one way. It is not as I would like it, but the world is that way, and I can't change it overnight.

Mr. GORDON. If there is still time, I would like to

Mr. LAMPSON. I yield to Mr. Gordon.

Mr. GORDON. Mr. Chairman, you know, again, this is our Committee, not somebody else's Committee. We should try to do what we think is right here.

Chairman BOEHLERT. Well, we always do, but we also have to keep our eye on the objective of this Committee.

Mr. GORDON. Right.

Chairman BOEHLERT. We can talk—excuse me—

Mr. GORDON. Sir, go ahead.

Chairman BOEHLERT. You have spoken several times. The Chair is generous with the time, and I will continue to be generous, but the fact of the matter—well, you are recognized.

Mr. GORDON. If Mr. Lampson would—I am just—

Mr. LAMPSON. I yield.

Mr. GORDON [continuing]. Trying to finish up his time. Again, all I am pointing out is that all we are doing here is asking NASA to do what President Bush's OMB asked him earlier to do, what the Senate Appropriations Committee asked them to do so that we would have some of this planning information, not to get into an I told you—I don't want to be in an I told you so situation. I want to be able to help them to plan out a future and so that we can understand that we have to know what are—what are the infrastructure needs of Kennedy, what are the infrastructure needs of Johnson and other facilities here. Again, all we are doing is asking them to do what the Administration and the appropriators have already asked them to do and they have not completed.

Chairman BOEHLERT. Thank you very much.

We will—that is why I mentioned the value of using the report language effectively to advance the best interests of what both sides of the aisle agree we have to advance.

Mr. SMITH of Michigan. That would be helpful. Thank you, sir. I think what we need to really have, Mr. Chairman, is some good testimony and good debate of what are the goals of the space program. There is a lot of interest, of course, in manned space flight, but I would suggest to you that depending on what our goals are,

we also need to figure out what should be the balance between unmanned flight and manned flight.

In our Research Subcommittee, we have had testimony that the dollars spent on research could be much more effective in unmanned space flight and actual research on the ground with simulation. So I think one goal that this Committee needs to look at, and I appreciate the interest of our Texas delegation with manned space flight, but really we need to get to—and when Mr. Lampson was talking about his amendment, and I appreciate his amendment, my suggestion to him was that we also need to fit in there the unmanned space flight and what are our goals on unmanned space. And so I just conclude, Mr. Chairman, to suggest that with the tightness of the budget in the future, the goals of the overall space flight program aren't just to put men in space but are to accommodate the new exploration of space to have a better knowledge of outer space to accrue some of the wisdom that research can give us in terms of our ability to better accommodate the potential future of outer space.

Mr. ROHRABACHER. Would the gentleman yield?

Mr. SMITH of Michigan. I would yield and after Mr. Rohrabacher is finished, I would yield back the balance of my time.

Mr. ROHRABACHER. I certainly think that the distinguished Chairman of the Research Committee is correct that space is not just manned—a manned system and that we should be looking at our space exploration and space utilization beyond manned. However, let me note to the distinguished Chairman of the Subcommittee that Mr. Gordon and Mr. Lampson are Members of the Space and Aeronautics Subcommittee, and our responsibility does definitely include overseeing manned space. And they have not been receiving, as I have not been receiving, the type of answers to the questions of long-term strategy that I think would give me confidence that the job is being done. And thus, I could understand Mr. Lampson and Mr. Gordon's concern here. And—but the Chairman wants to make sure we accomplish this on another bill and another vehicle, and I think that is legitimate as well.

Chairman BOEHLERT. The gentleman is correct. Thank you very much. The question is on the amendment.

Mr. GORDON. Mr. Chairman, I will withdraw my amendment since you have assured us that you are going to put this in the request to—

Chairman BOEHLERT. Thank you very much.

Mr. GORDON [continuing]. The Strategic Review in the report language. I think it is clear that everyone here thinks we need more planning, we need to better understand, and I think that a sincere effort to accomplish that through the—we don't care how it is done. We just want the information, and I thank you for putting it in the report language.

Chairman BOEHLERT. Thank you.

The gentleman asks unanimous consent to withdraw his amendment. Without objection, so ordered.

The next amendment is amendment number ten offered by Mr. Lampson of Texas. Would you defer to your senior colleague on your side of the aisle and follow his wise ways? Mr. Lampson, I—

Mr. LAMPSON. I have an amendment at the desk, Mr. Chairman.

Chairman BOEHLERT. The Clerk will read the amendment.

The CLERK. Amendment to H.R. 1085 offered by Mr. Lampson.

Chairman BOEHLERT. I would ask unanimous consent to dispense with the reading. Without objection, so ordered.

Mr. Lampson is recognized for 5 minutes.

Mr. LAMPSON. Thank you, Mr. Chairman.

You know, I am not sure there is anything up here with the possible exception of the work that I do on missing and exploited children that I feel as strongly about as I do on space. And I have been going—taking students since I was a physical science teacher in 1968 to 1969 and later focusing on our accomplishments in space. And I know what it did to inspire children to study harder in the areas of math and science and engineering and to dream about going to work at NASA.

And it is interesting to note that over the last 10 years, NASA's workforce has been cut from 25,000 down to 18,000 employees. And even before the *Columbia* accident, the future direction of many of NASA's programs, such as the Space Station and the Space Shuttle, were left out there to be determined. There were no specific statements about where we were going and what we were going to be doing. America's human space flight program is adrift with no clear vision or commitment to any goals after the completion of the International Space Station.

And to follow-up with what Mr. Smith said earlier, except that there are some, Mr. Smith, with robotic efforts in space. We do have specific goals that reach out—and missions that are planned to take us for a long period of time.

Given that outlook, why should a good scientist or engineer or project manager seek to join NASA or stay there if offered other options, and I don't think they would? The intent of my amendment, therefore, is to require the NASA Administrator to provide Congress with a vision and a concrete set of goals for the Nation's human space flight program after the International Space Station.

The—what I remember from a hearing where Mr. O'Keefe came and told us about many of the things that he was proposing that NASA consider that would bolster the opportunity to entice people to come to work for NASA, those monetary incentives, I remember getting up from this dais and walking out and sitting down with a group of about 15 or 20 college students sitting here in the audience. And I quietly asked those young folks whether it was those incentives that we were talking about or if it was something else that might most entice them to want a career with NASA. And the answer was, "We want something to do. We want to be able to live a dream and to have a shot at accomplishing that dream. And that is more important to us than some monetary reward might be."

So the basic premise of this is that raises and retention bonuses are not the way to keep and retain NASA employees, rather an exciting, goal-based vision for human space flight is how you keep the best and the brightest NASA employees. So my amendment requires the NASA Administrator, within 90 days of enactment, to establish a phased series of goals over the next 20 years, including human visits to the Earth to sun libration points, Earth to orbit crossing asteroids, deployment of a human-tended research and



habitation facility on the moon, human expeditions to the surface and moons of Mars.

And the real obstacle that we face in overcoming the drift in the Nation's human space flight program is not technological, and it is not financial. I said it earlier. It is just the lack of a commitment of getting started. Take the first step. Act instead of talk. A recent national poll conducted earlier this month found that more than half the people surveyed believe that we should not resume the Space Shuttle program until the future of the space program has been redefined. Fifty-two percent of our citizens, or those who were polled, at least, believe that we should return to the moon in the near future and establish a base. We need to move forward and outward beyond low Earth orbit. And in the process, we will revitalize our space program. We will energize our industrial and academic sectors. We will create new opportunities for international cooperation and, more than anything, will inspire our young people to want to go back into its involvement with NASA.

So I, indeed, ask for support of this amendment and think that it is extremely germane to the workforce creation that George Abbey, within the first 6 months of my being in Congress 5–6 years ago, asked us to begin to address.

And I yield back my time.

Chairman BOEHLERT. The gentleman's timing is impeccable. We have 11 seconds left in your 5 minutes.

Here is where we are right now. We have three other amendments. All of the arguments that need to be made have been made, it is just that not everyone has made them. That is an old saw on Capitol Hill. So we have the following choice facing us. We can have a vote on this amendment and then go over and vote on the Floor and then come back and then be interrupted by another one. No new light will be shed on the subject matter over the next 2 hours. A lot of Members will be inconvenienced. I am here as long as this hearing is going forward. So is Mr. Hall. So is there a determined effort on the part of my distinguished colleagues on the other side to press the point, or will you follow the lead set by Mr. Gordon?

The point has been made. There are some honest differences of opinion. And let us wrap up this bill. What is your pleasure, Mr. Hall?

Mr. HALL. Mr. Chairman, if you mean wrapping it up as putting all four of those amendments up here for an up or down vote, I am going to have to ask you for regular order.

Chairman BOEHLERT. Indeed, regular order. I understand. All right.

Mr. HALL. Each one is entitled—there is something different about it.

Chairman BOEHLERT. No, no. And I understand. I understand. They are all in a general—very similar in nature, but we will proceed. Is there anyone else that seeks recognition to speak?

Mr. HALL. Before you vote on this one—my wife is in the dining room and can't pay her bill. I have to get over there in just a minute.

Chairman BOEHLERT. We would like to get a vote in on this. We have got 10 minutes now. Who else seeks recognition?

Mr. HALL. I have sought recognition, not just about—

Chairman BOEHLERT. Mr. Hall.

Mr. HALL [continuing]. My wife, but about my friend, Nick Lampson.

Nick, you are directing the Administrator to take certain actions that we have asked him to take and that he has not taken, correct?

Mr. LAMPSON. Yes, sir, that is correct.

Mr. HALL. I would remind you that this is the same Administrator that came before this Committee and withheld the fact that he had been appointed Administrator and danced around all of the questions we asked him. And do you know how hard it is to get any action out of him?

Mr. LAMPSON. Unfortunately, I do. Yes, sir.

Mr. HALL. And are you aware of the fact that as another example—you have talked as an example at the *Columbia* accident there was no commitment by the Administrator to restoring the research capabilities that had been planned for the Space Station. And there is still no commitment. Now is your amendment based on the fact that as another example a few years ago, NASA challenged a group of its bright young engineers to come up with a low-cost, reliable crew rescue vehicle for the Space Station and they did? It was an X-38 CRV. Did you know that is the one that was canceled by—unceremoniously by Mr. O’Keefe?

Mr. LAMPSON. Unfortunately, I—

Mr. HALL. We have to direct him to do something to get him to do what the Congress wants done?

Mr. LAMPSON. Yes, sir. You are right.

Mr. HALL. I support your amendment, and I ask that we support it and vote for it.

Mr. LAMPSON. Thank you.

Mr. HALL. I yield back my time.

Chairman BOEHLERT. Thank you. It is in violation of House rules to vote while there is a vote in progress on the Floor, so the Committee will stand in recess to 5 minutes after the—this vote is finished, if this is the only vote.

[Recess.]

Chairman BOEHLERT. To get on with the business of the Committee, the question is on the Lampson Amendment. All in favor, say aye.

Ms. LOFGREN. Mr. Chairman.

Chairman BOEHLERT. Yes.

Ms. LOFGREN. Mr. Chairman, I would move to strike the last word, and I would like to yield time to Mr. Lampson.

Chairman BOEHLERT. The gentlelady strikes the last word, and she yields time to Mr. Lampson.

Mr. LAMPSON. I just wanted to reemphasize before we took the vote on this that—how important I felt that it is to consider what this can do to energize the workforce considering go back in or going to NASA. It is something that really a lot of folks have made many comments to me about, not just George Abbey. I think he was the first that explained the real problem that existed at particularly the Johnson Space Center how many folks were choosing to leave their—at times in their career that was going to create a greater hardship. And that hardship is what I think we are trying

to address through the big bill as well as what this amendment can do.

So Mr. Chairman, without belaboring the point, I would hope that we would give consideration to this under the circumstances. I would love to see the passage of this bill, love for you to accept it, and let us go forward with this included in your big bill.

And I yield back my time to Ms. Lofgren.

Chairman BOEHLERT. Thank you very much.

Ms. LOFGREN. I yield back.

Chairman BOEHLERT. Thank you very much. The question is on the amendment offered by the gentleman from Texas, Mr. Lampson. All in favor, say aye. Opposed nay. The nays have it.

Mr. LAMPSON. Mr. Chairman, I request the yeas and nays.

Chairman BOEHLERT. The Clerk will call the roll.

Mr. LAMPSON. Roll call.

The CLERK. Mr. Boehlert?

Chairman BOEHLERT. No.

The CLERK. Mr. Boehlert votes no. Mr. Lamar Smith?

Mr. SMITH of Texas. [No response.]

The CLERK. Mr. Weldon?

Mr. WELDON. No.

The CLERK. Mr. Weldon votes no. Mr. Rohrabacher?

Mr. ROHRABACHER. [No response.]

The CLERK. Mr. Barton?

Mr. BARTON. [No response.]

The CLERK. Mr. Calvert?

Mr. CALVERT. No.

The CLERK. Mr. Calvert votes no. Mr. Nick Smith?

Mr. SMITH of Michigan. No.

The CLERK. Mr. Smith votes no. Mr. Bartlett?

Mr. BARTLETT. [No response.]

The CLERK. Mr. Ehlers?

Dr. EHLERS. [No response.]

The CLERK. Mr. Gutknecht?

Mr. GUTKNECHT. No.

The CLERK. Mr. Gutknecht votes no. Mr. Nethercutt?

Mr. NETHERCUTT. [No response.]

The CLERK. Mr. Lucas?

Mr. LUCAS. No.

The CLERK. Mr. Lucas votes no. Mrs. Biggert?

Mrs. BIGGERT. [No response.]

The CLERK. Mr. Gilchrest?

Mr. GILCHREST. [No response.]

The CLERK. Mr. Akin?

Mr. AKIN. No.

The CLERK. Mr. Akin votes no. Mr. Johnson?

Mr. JOHNSON. No.

The CLERK. Mr. Johnson votes no. Mr. Sullivan? I am sorry. Ms. Hart? Ms. Hart?

Ms. HART. [No response.]

The CLERK. Mr. Sullivan?

Mr. SULLIVAN. [No response.]

The CLERK. Mr. Forbes?

Mr. FORBES. No.

The CLERK. Mr. Forbes votes no. Mr. Gingrey?  
Mr. GINGREY. [No response.]  
The CLERK. Mr. Bishop?  
Mr. BISHOP. [No response.]  
The CLERK. Mr. Burgess?  
Mr. BURGESS. No.  
The CLERK. Mr. Burgess votes no. Mr. Bonner?  
Mr. BONNER. No.  
The CLERK. Mr. Bonner votes no. Mr. Feeney?  
Mr. FEENEY. No.  
The CLERK. Mr. Feeney votes no. Mr. Neugebauer?  
Mr. NEUGEBAUER. No.  
The CLERK. Mr. Neugebauer votes no.  
Chairman BOEHLERT. How is Mr. Bartlett recorded?  
The CLERK. Mr. Bartlett is not recorded.  
Mr. BARTLETT. Bartlett votes no.  
The CLERK. Mr. Bartlett votes no.  
Chairman BOEHLERT. How is Ms. Biggert recorded?  
The CLERK. Mrs. Biggert is not recorded.  
Mrs. BIGGERT. No.  
The CLERK. Mrs. Biggert votes no. Mr. Hall?  
Mr. HALL. Aye.  
The CLERK. Mr. Hall votes yes. Mr. Gordon?  
Mr. GORDON. Aye.  
The CLERK. Mr. Gordon votes yes. Mr. Costello?  
Mr. COSTELLO. [No response.]  
The CLERK. Ms. Johnson?  
Mr. COSTELLO. Aye.  
The CLERK. Mr. Costello votes yes. Mr. Johnson—Ms. Johnson?  
Ms. JOHNSON. Aye.  
The CLERK. Ms. Johnson votes yes. Ms. Woolsey?  
Ms. WOOLSEY. [No response.]  
The CLERK. Mr. Lampson?  
Mr. LAMPSON. Yes.  
The CLERK. Mr. Lampson votes yes. Mr. Larson?  
Mr. LARSON. [No response.]  
The CLERK. Mr. Udall?  
Mr. UDALL. Yes.  
The CLERK. Mr. Udall votes yes. Mr. Wu?  
Mr. WU. [No response.]  
The CLERK. Mr. Honda?  
Mr. HONDA. [No response.]  
The CLERK. Mr. Bell?  
Mr. BELL. Yes.  
The CLERK. Mr. Bell votes yes. Mr. Miller?  
Mr. MILLER. Aye.  
The CLERK. Mr. Miller votes yes. Mr. Davis?  
Mr. DAVIS. [No response.]  
The CLERK. Ms. Jackson Lee?  
Ms. JACKSON LEE. [No response.]  
The CLERK. Ms. Lofgren?  
Ms. LOFGREN. Aye.  
The CLERK. Ms. Lofgren votes yes. Mr. Sherman?  
Mr. SHERMAN. [No response.]

The CLERK. Mr. Baird?

Mr. BAIRD. Aye.

The CLERK. Mr. Baird votes yes. Mr. Moore?

Mr. MOORE. [No response.]

The CLERK. Mr. Weiner?

Mr. WEINER. [No response.]

The CLERK. Mr. Matheson?

Mr. MATHESON. Aye.

The CLERK. Mr. Matheson votes yes. Mr. Cardoza?

Mr. CARDOZA. [No response.]

The CLERK. Mr. Cardoza votes no.

Chairman BOEHLERT. How is Mr. Gingrey recorded?

The CLERK. Mr. Gingrey is not recorded.

Mr. GINGREY. No.

The CLERK. Mr. Gingrey votes no.

Chairman BOEHLERT. How is Mr. Smith of Texas recorded?

The CLERK. Mr. Smith of Texas is not recorded.

Mr. SMITH of Texas. No.

The CLERK. Mr. Smith votes no.

Chairman BOEHLERT. Mr. Rohrabacher?

The CLERK. Mr. Rohrabacher is not recorded.

Mr. ROHRABACHER. No.

The CLERK. Mr. Rohrabacher votes no.

Chairman BOEHLERT. How is Mr. Burgess recorded?

The CLERK. Mr. Burgess is not recorded—is recorded as no.

Chairman BOEHLERT. How is Mr. Moore recorded?

The CLERK. Mr. Moore is not recorded.

Mr. MOORE. Aye.

The CLERK. Mr. Chairman, yes, 12; no, 18.

Chairman BOEHLERT. Thank you very much. The amendment is defeated.

The next amendment is amendment number 11 on the roster offered by Mr. Miller of North Carolina. Mr. Miller, are you prepared to proceed?

Mr. MILLER. I am, sir.

Chairman BOEHLERT. The Clerk will report the amendment.

The CLERK. Amendment to H.R. 1085 offered by Mr. Miller.

Chairman BOEHLERT. I ask unanimous consent to dispense with the reading. Without objection, so ordered. Mr. Miller is recognized for 5 minutes.

Mr. MILLER. Thank you, Mr. Chairman.

This bill is another—or this amendment is another that goes to personnel policies. The civil service system was, again, considered a great, great reform a century ago or more, replacing the spoils system, when government jobs were simply political payoffs, that they were given out for basically cronyism or political patronage, not based upon merit and not based upon any great sense of duty that they were to do the people's work and give the people their money's worth. All of the—I agree, though, that all of those safeguards in the civil service system may have become, in some instances, an impediment to efficient government, that they have made government a lumbering, unresponsive bureaucracy. And I am certainly willing to support some experiments to try other methods to make sure that we are recruiting and motivating and

rewarding employees to make sure that we have the best workforce possible.

Mr. Chairman, I do not agree that this bill is a narrow focus, as you have said on several occasions. I think that personnel is central to how an agency operates. The personnel policies are central to how an agency operates, and I also do not agree that this does not have to do with safety, because if human space flight is to be safe, it will be NASA employees who make it safe. It is very hard to read the responses of NASA to the inquiries—the questions put to them by Mr. Gordon and not come away with the impression that they simply, rather than having specific ideas for how to be more innovative to make government more flexible and more efficient, they simply found all of the civil procedures—all of this civil service stuff to be a nuisance.

And it is also hard not to read the responses and think they aren't all that keen on Congressional oversight, either. They also think that we are pretty much a nuisance. They said that they oppose to having any limitation on how many people could be in the demonstration projects by saying that that would create a dual workforce with some people operating under one set of rules and others operating on another set of rules and that was intolerable. But now they say if it is 8,000 instead of 5,000, that is all right. We have asked them exactly what they plan to do. They say, "We identified additional tools to enhance these capabilities, and are seeking legislation to give us the tools." And in the next paragraph, they say, "Although we are very interested in testing human capital innovations under the demonstrative project authority, we do not have a preconceived notion of what the features of the—other features of the project." They have some ideas, but they don't have some ideas, or maybe they are just not telling us.

Mr. Chairman, Members of the Committee, this amendment provides for the National Academy of Public Administration, which is apparently a well-respected body, to contract—requires that NASA contract with them and to conduct a study of exactly what flexibility they have now and how they are using it and if they are not using it, why they are not using it. Although this amendment is limited to a one-time thing—or a one-time provision to look at it now, it certainly is probably appropriate that in a year or two or after NASA has gotten enhanced authority to look again at how they are using their authority.

But I cannot share their annoyance of having to answer to Congress. This seems to be our job. We should look at how they are running that agency. And whether human space flight is safe or not is going to depend very greatly, if not entirely, upon their employees, whether they have the talented employees, the dedicated employees, that they need to do the work.

Chairman BOEHLERT. Thank you very much.

The Chair will oppose the amendment. H.R. 1085 already directs NASA to submit annual performance plans and specific information on the use of these workforce authorities to Congress for the next 6 years. The Congress does not need another, yet another external study from NASA to take the place of already vigorous Congressional oversight, which this Committee intends to provide.

Is there anyone else who seeks to be recognized on the amendment?

Mr. HALL. Mr. Chairman.

Chairman BOEHLERT. Mr. Hall.

Mr. HALL. Mr. Chairman, I strongly support Mr. Miller's amendment. Based on testimony and answers that we have received from NASA to date, NASA hasn't presented convincing evidence it has made full use of the workforce authorities already available to it under existing law and if we have not gotten any clear evidence that NASA even knows how effective these existing authorities might be if they were fully utilized. Now that is not just my opinion.

When the GAO testified on NASA's workforce needs last year, David Walker, who is the GAO Comptroller General, stated, and I quote, "At this time, without having performed a more detailed analysis of NASA's human capital plan, we are not in a position to assess NASA's use of existing authorities, the sufficiency of those authorities, and their relationship to agency-wide human capital need." Even they couldn't tell what they were doing and what they were going to say.

Moreover, NASA has acknowledged it hasn't even collected basic data. For example, it currently is unable to compare its success rate in filling positions with that of the industry at large, a comparison that is very needed. I believe Congress needs some answers as to how NASA is using the authorities at NASA, as already provided it. And Mr. Miller's amendment will help to get those answers. I urge you to adopt his amendment.

I yield back my time.

Chairman BOEHLERT. Is there anyone else who seeks recognition? If not, we will vote and—or go to the Floor and vote. We can't vote, because there is a vote in progress.

And when we return, the first order of business will be to vote on the Miller Amendment. The Committee stands in recess.

[Recess.]

Chairman. BOEHLERT. We will resume now, and as we—

Ms. JACKSON LEE. Mr. Chairman.

Chairman BOEHLERT. Went to our recess, the pending order of business was a vote on the Miller—

Ms. JACKSON LEE. Chairman. I would like to strike the last word.

Chairman BOEHLERT. The Chair will indulge the gentlelady from Texas, but if we continue on and in—we recessed with the idea the first order of business when we come back would be to vote, but now the gentlelady is here. She was not here before the vote. We will recognize her, but the fact of the matter is we will never get out of here if we—

Ms. JACKSON LEE. Mr. Chairman, I was given incorrect information by the staff and I was told that we were still open on debate on this—

Chairman BOEHLERT. Our staff would never give out incorrect—

Ms. JACKSON LEE. Well, I am—

Chairman BOEHLERT. Information on either side of—

Ms. JACKSON LEE. What I am going to say that and I—

Chairman BOEHLERT. The gentlelady is reprimanded.

Ms. JACKSON LEE. If there is no—if the—if we are not open for debate on Mr. Lampson, then I am inappropriately striking the first word, so I don't know what is the procedure at this point.

Chairman BOEHLERT. The last amendment has been disposed of. The pending amendment—

Ms. JACKSON LEE. All right. Well.

Chairman BOEHLERT. Is the Miller amendment, amendment #12.

Ms. JACKSON LEE. Thank you very much.

Chairman BOEHLERT. Thank you, and the vote then is on the Miller amendment. All in favor say aye. Opposed no. The nos have it.

Mr. LAMPSON. Mr. Chairman, may I call for a rollcall vote?

Chairman BOEHLERT. You certainly may call for a rollcall vote.

The CLERK. Thank you. Mr. Boehlert.

Chairman BOEHLERT. No.

The CLERK. Mr. Boehlert votes no. Mr. Lamar Smith.

Mr. SMITH. No.

The CLERK. Mr. Smith votes no. Mr. Weldon.

Mr. WELDON. No, not really.

The CLERK. Mr. Weldon votes no. Mr. Rohrabacher.

Mr. ROHRABACHER. No.

The CLERK. Mr. Rohrbacher votes no. Mr. Barton. Mr. Calvert.

Mr. CALVERT. No.

The CLERK. Mr. Calvert votes no. Mr. Nick Smith. Mr. Bartlett. Mr. Ehlers. Mr. Gutknecht. Mr. Nethercutt. Mr. Lucas. Mrs. Biggert.

Mrs. BIGGERT. No.

The CLERK. Mrs. Biggert votes no. Mr. Gilchrest. Mr. Akin.

Mr. AKIN. No.

The CLERK. Mr. Akin votes no. Mr. Johnson. Mrs.—Ms. Hart. Mr. Sullivan. Mr. Forbes.

Mr. FORBES. No.

The CLERK. Mr. Forbes votes no. Mr. Gingrey.

Mr. GINGREY. No.

The CLERK. Mr. Gingrey votes no. Mr. Bishop. Mr. Burgess. Mr. Bonner. Mr. Feeney. Mr. Neugebauer. Mr. Hall. Mr. Hall votes yes. Mr. Gordon. Mr. Costello.

Mr. COSTELLO. Aye.

The CLERK. Mr. Costello votes yes. Ms. Johnson.

Ms. JOHNSON. Aye.

The CLERK. Ms. Johnson votes yes. Ms. Woolsey. Mr. Lampson.

Mr. LAMPSON. Aye.

The CLERK. Mr. Lampson votes yes. Mr. Larson. Mr. Udall.

Mr. UDALL. Yes.

The CLERK. Mr. Udall votes yes. Mr. Wu. Mr. Honda. Mr. Honda votes yes. Mr. Bell. Mr. Miller.

Mr. MILLER. Aye.

The CLERK. Mr. Miller votes yes. Mr. Davis. Ms. Jackson Lee. Ms. Lofgren. Mr. Sherman. Mr. Baird. Mr. Moore. Mr. Weiner. Mr. Matheson. Mr. Matheson votes yes. Mr. Cardoza. Mr. Cardoza.

Ms. LOFGREN. I recorded. Excuse me, Mr. Chairman. Jackson Lee recorded.

The CLERK. Ms. Jackson Lee is not recorded.



Chairman BOEHLERT. Missed earlier—

The CLERK. Ms. Jackson Lee votes yes. Mr. Ehlers is not recorded.

Mr. EHLERS. No.

The CLERK. Mr. Ehlers votes no.

Chairman BOEHLERT. Mr. Bartlett.

The CLERK. Mr. Bartlett is not recorded.

Mr. BARTLETT. No.

The CLERK. Mr. Bartlett votes no.

Chairman BOEHLERT. Chairman Nick Smith.

Mr. SMITH. No.

The CLERK. Mr. Nick Smith votes no.

Chairman BOEHLERT. Mr. Feeney.

Mr. FEENEY. No.

The CLERK. Mr. Feeney votes no.

Chairman BOEHLERT. Is there anyone else that seeks recognition? Clerk will report when she is prepared to report.

The CLERK. Mr. Chairman, yes 9, no 13.

Chairman BOEHLERT. The amendment is defeated, and we stand in recess pending the current vote on the floor. We will resume immediately thereafter.

[Recess.]

Chairman BOEHLERT. We, I think, have a bipartisan agreement. The next amendment to be offered is Boehlert amendment #13. The Clerk will distribute the amendment. The Clerk's assistants will distribute the amendment while the Clerk calls the amendment.

The CLERK. The amendment to H.R. 1085 offered by Mr.—

Chairman BOEHLERT. Boehlert.

The CLERK. Boehlert.

Chairman BOEHLERT. All right. I ask unanimous consent to dispense with the reading. Without objection, so ordered. We have majority and minority agreement. This is an amendment to change the Aumblock amendment I had offered earlier. The amendment strikes language we added earlier, capping the scholarship payback period at 4 years. With the passage of this amendment, the bill will read as it had before, which is to say that a scholarship recipient will have to work two years at NASA in return for each year of assistance, regardless of how many years of assistance was provided. Mr. Rohrabacher is the author of the language in this bill on scholarships, and he objects to language I had offered earlier to cap the service period at four years. In deference to the views of the distinguished Chairman of the Subcommittee and his willingness to compromise on his earlier amendment, I am offering this amendment now. Mr. Gordon.

Mr. GORDON. Mr. Chairman, this appears to be a good faith technical amendment and certainly has my support.

Chairman BOEHLERT. The vote is on the amendment. All in favor say aye. Opposed no. The ayes have it and the amendment is agreed to. Now we have just—one pending amendment, but the offerer of the amendment is not here, Ms. Jackson Lee. We have—Mr. Hall has one, too, so I guess we will suspend activity pending the arrival of additional colleagues, and there is some question on the floor whether we are going to have another procedural vote within a couple of minutes, and some people are—most people, I

think, are staying over there saying why come back over here, or we would have the bells ring and go back over there. We are going through this nonsense and both sides are guilty of it. When we were in the minority, we used to raise hell with the majority, and we were constantly sending signals that no one ever received, and it just inconvenienced everybody else. Now, they are in the minority, we are in the majority, the same thing is happening. We are sending signals that no one is receiving and everybody is inconvenienced, but that is one of the peculiarities of this institution. We have been advised that Ms. Jackson Lee is on her way. The Chair recognizes Mr. Johnson.

Mr. JOHNSON. Thank you, Mr. Chairman. I move to strike the last word, and insert—

Chairman BOEHLERT. Recognized.

Mr. JOHNSON. Insert in the record that if present, with respect to the first motion, to allow the Committee to adjourn, that I would have voted yes, and with respect to amendment #11, Mr. Miller, present, I would have voted no. If the Committee record would reflect that, I would be grateful.

Chairman BOEHLERT. Duly noted. Anything else required? Anybody else seek any recognition while we are pausing to reflect on our deeds for the day and are awaiting the arrival of—offerer of the next amendment? For the purpose of offering an amendment, the Chair recognizes the distinguished gentlelady from Texas, Ms. Jackson Lee.

Ms. JACKSON LEE. Thank you very much, Mr. Chairman. I have an amendment at the desk.

Chairman BOEHLERT. The Clerk will report the amendment.

The CLERK. Amendment to H.R. 1085, offered by Ms. Jackson Lee of Texas.

Chairman BOEHLERT. I ask—being without objection, so ordered. The gentlelady is recognized for five minutes.

Ms. JACKSON LEE. I thank the distinguished gentleman. Before I begin, I might remind my colleagues that I believe that over the years, we have in a bipartisan way under several Chairmen—Chairpersons supported the MURED office that was established as an office of equal opportunity in 1990 to address the lack of significant research capabilities at minority-serving institutions and increase the number of faculty who could successfully compete in NASA's research grant peer review system.

I think much has been achieved and there is much to be achieved. My amendment simply seeks to retain the MURED in the status that it is in, and as well, to focus on the importance of this particular task.

As we look to rejuvenating and restructuring the NASA workforce, I hope we keep in mind an issue that we have all acknowledged and worked to correct in the past, the scarcity of minority employees at NASA, especially in senior management positions.

Might I also add that this Committee has also discussed the numbers of minorities who were astronauts as well, and the progress that they made in being able to secure a place on an actual space shuttle mission. To address this problem, the Minority University Research and Education Division, and it was a division, was formed in 1990. As I said, the Division was initially placed in

NASA's Office of Equal Opportunity and its Minority University Research and Education program has been very successful at combating the vast disparity in funding between majority and minority-serving institutions. Funding minority-serving institutions ensures that the NASA Administrator will have an excellent pool of diverse candidates to form the NASA workforce of the future.

Recently, MURED, the division, has been eliminated, and MUREP, the research grant program, has been transferred to NASA's Office of Education. I will not, today, go into the issue of whether the transfer to Education was appropriate. I am pleased to hear that MUREP is in its new home. It is slated to receive good funding. However, I am concerned that when you lose a division status, you lose prominence, you lose focus, you lose recognition and, of course, you lose goals. I am concerned that in the long run, this vital and successful program again loses high profile and, perhaps, the funding in the future.

We as a Committee are very supportive, but we must ensure that this very valuable effort by NASA is continued. This amendment will require that the Minority University Research and Education initiative is reinstated with its division status, ensuring that NASA Administrators have a diverse pool of well-qualified workforce candidates to choose from, a critical component of workforce flexibility.

This is workforce generated because what we are attempting to do is to build a research balloon that includes all of America, and that trains the next generation of researchers, the next generation of employees at NASA and the next generation of space researchers and space astronauts, if you will.

I would ask my colleagues to consider the simplicity of this amendment, is simply retains the division status. It does no more and no less, and I would ask my colleagues to look back at the history of MURED and its success. I am concerned when it is submerged, because of the lack of focus, and I would ask my colleagues to consider this amendment, and I would yield back my time.

Chairman BOEHLERT. The Chair will oppose the amendment, and I would ask the author before I go any further if the author would be willing to withdraw the amendment and address this subject in a meaningful way in report language.

Ms. JACKSON LEE. Mr. Chairman, I know that you have been a sincere partner in this effort, and I thought about it, and if we can write language that is strong and effective, I am looking to get to—I would like to have a vote on this. I would imagine that I would lose this vote.

Chairman BOEHLERT. I would imagine so, too. All right, but—

Ms. JACKSON LEE. Maybe I should imagine that I would win it.

Chairman BOEHLERT. Lose the issue, but you don't want to lose the issue, and—

Ms. JACKSON LEE. Maybe I should imagine—

Chairman BOEHLERT. One mind as we address this issue.

Ms. JACKSON LEE. Maybe I should imagine that I would win it, so I am interested in your concept. Can I have just a second, Mr. Chairman?

Chairman BOEHLERT. Sure.

Ms. LOFGREN. Mr. Chairman. While the gentlelady is pondering, may I move to strike the last word?

Chairman BOEHLERT. By all means. The chair yields to the gentlelady from California.

Ms. LOFGREN. I actually think that the gentlelady's amendment has merit, and while I know that the Chairman has a strong commitment to the same goals, I am not sure how report language could accomplish what Ms. Jackson Lee's amendment would do, and for those of us who have NASA centers either in their districts or nearby, you can—we can attest to the tremendous impact that these activities that Ms. Jackson Lee's amendment addresses has had, especially on low income, disadvantaged and also minority students.

I had the privilege of attending an event last summer at NASA Ames that was organized with the National Hispanic University, San Jose State, Carnegie-Mellon and other institutions, and I will tell you, it was a very moving experience, because these were high school students who were going to be going to college as a consequence of their connection with NASA, I think organized through this division. Kids who had been nowhere and who the professors from Carnegie-Mellon told me had come from really not being able to do algebra to almost ready for calculus in a six week time period. It was stunning what these young people achieved, and not just in terms of their academic achievement, but their belief that they could become scientists, and the interesting thing was that the Ph.D. candidates and professors who were from—I mean, awesome universities believed that these students really could be part of the next generation of scientists that we so desperately need.

So, I understand the desire to move this legislation without a lot of amendments. I would hope that maybe an exception might be made in this case, and I just thought that offering that personal observation experience might be of some value to the members of the Committee, and I thank the Chairman for yielding me these 5 minutes to share that experience, and I yield back.

Chairman BOEHLERT. I thank you, and you know, there is no question that—of the gentlelady from California's commitment nor the commitment of the author to minority institutions, nor the commitment of the Chair. There should be no doubt this is something that we view as very, very important, but we can't expect NASA to reorganize about every half-hour. They are just going through a reorganization, and I think we should have the benefit of a report from NASA on just what has happened and how is it working, and where is it going, and we are reaching out to some minority groups, and quite frankly, some of the minority groups have told us they do have some—what I appear to be legitimate questions about the effect of the amendment, so it is not, in any way, representing a lessening of my commitment to minority-serving institutions. As a matter of fact, we are dealing with a separate bill on that subject, which I enthusiastically support, but NASA just recently created this new education enterprise to elevate the priority of all NASA's education initiatives, and boy, I want them to do that. I want every agency to do that, and in line with that, we want them to focus on the importance of the minority students, and I am convinced that they are going to do that, too, but they don't have a large experience factor to report back to us on, but I would like to know what the experience thus far with this new ini-

tiative tells them, and I would like some more time to reach out to others in the minority community to have the benefit of their input and counsel.

So, for all of the above reasons, I would be more than happy to try to work with the gentlelady in having strong report language in there, but obviously, not accomplishing exactly what her amendment does, but I have just explained why I don't think now, the timing is right to do that, but one—I am just very much supportive of the Minority University Research and Education Program. I think we have to give it attention. I think we have to give it resources, and we have to give it follow-through to make certain it is getting the attention and the resources are being used to desired ends. Is there anyone else who would care?

Mr. GORDON. Mr. Chairman, I would strike the last word.

Chairman BOEHLERT. Mr. Gordon is recognized.

Mr. GORDON. Yes, sir. Mr. Chairman, my preference would be to have this language in the document. If it is not going to be, if it is going to be report language, I would suggest that there should be a time certain on reporting back. As has been pointed out today, I think there has been some—maybe lack of responsiveness, maybe it is because of too much to do, but if we are sincere about wanting a report back, we should have a time certain, and I yield the balance of my time to the gentlelady from Texas.

Ms. JACKSON LEE. I thank the distinguished gentleman from Tennessee. The Chairman has given a gracious offer. I would like—been so moved by the eloquence of Congresswoman Lofgren on this issue that I would appreciate it if the—I know that markups are not necessarily where we negotiate report language, but I would be interested in what thrust the Chairman would have on this language, with respect to this point.

And might I say, Mr. Chairman, I too have engaged with a number of groups. I think the comfort level that you are hearing from them is thank God we have money and thank God we have an appropriations line, and certainly, I am thankful to that as well. I think what we are speaking of as it relates to the division is a viable place—a place setting at the table. When you are submerged under this holistic education component, you are in fact submerged. You are subordinate, as opposed to being able to speak eloquently and with legitimacy about some of these very deep problems that we have.

The digital divide is one gap, but the educational science gap is big. I think you can count on two hands the number of Ph.D.'s graduating in the Class of 2003 that happen to be minorities or happen to be African-Americans in some of these very finite areas, and I think that this is a very important situation in being able to promote research and education in these institutions, being able for them to secure grants, because they have the expertise.

Just as an aside, Mr. Chairman, you are on the same Committee I am, Homeland Security, and had someone in the Bioshield legislation in a debate suggests that we don't want to be bothered with, and certainly they were well-meaning, but minority institutions—because we really need high-powered institutions to be doing this kind of research, that was hurtful to me.

I will be kind and not say that it was offensive. I am sure the person was not intending to be offensive, but it was certainly hurtful to suggest that our institutions don't have that kind of expertise, quality, or respect.

Chairman BOEHLERT. Hit the red light.

Ms. JACKSON LEE. And I think that MUREP as a division needs to be moving in that direction, and I would—let me just yield to the distinguished Chairman and see what kind of language he would be suggesting.

Chairman BOEHLERT. Let me say we will conclude this debate. I, too, was moved by the comments of the distinguished gentlelady from California, as I am so often moved by your remarks, Ms. Jackson Lee. We would have report language. We would operate in good faith. We would like you to take us at face value that we will try to develop language that addresses the issue in a meaningful way. That is the offer, but if you wish to proceed with the amendment, we will proceed with the amendment. You tell us, but we are going to act now. Which is your preference? The distinguished Mr. Palmer will report to—this is like in Jeopardy.

Ms. JACKSON LEE. Thank you, Mr. Chairman, for your patience. May I just inquire for a direct question? Would the report language include the direction of the need for making MURED a division?

Chairman BOEHLERT. No. Then you want to proceed with the vote?

Ms. JACKSON LEE. Let us proceed, and I thank for your graciousness.

Chairman BOEHLERT. Let us go. The Clerk will call the roll.

The CLERK. Mr. Boehlert.

Chairman BOEHLERT. No.

The CLERK. Mr. Boehlert votes no. Mr. Lamar Smith. Mr. Smith votes no. Mr. Weldon. Mr. Rohrabacher. Mr. Barton. Mr. Barton votes no. Mr. Calvert. I'm sorry. Mr. Rohrabacher. Mr. Rohrabacher votes no. Mr. Barton. Mr. Calvert. Mr. Nick Smith.

Mr. SMITH. No.

The CLERK. Mr. Smith votes no. Mr. Bartlett.

Mr. BARTLETT. No.

The CLERK. Mr. Bartlett votes no. Mr. Ehlers. Mr. Ehlers votes no. Mr. Gutknecht.

Mr. GUTKNECHT. No.

The CLERK. Mr. Gutknecht votes no. Mr. Nethercutt. Mr. Lucas. Mr. LUCAS. No.

The CLERK. Mr. Lucas votes no. Mrs. Biggert. Mrs. Biggert votes no. Mr. Gilchrest. Mr. Akin.

Mr. AKIN. No.

The CLERK. Mr. Akin votes no. Mr. Johnson.

Mr. JOHNSON. No.

The CLERK. Mr. Johnson votes no. Ms. Hart. Mr. Sullivan. Mr. Forbes. Mr. Forbes votes no. Mr. Gingrey. Mr. Bishop.

Mr. BISHOP. No.

The CLERK. Mr. Bishop votes no. Mr. Burgess. Mr. Bonner. Mr. Feeney.

Mr. FEENEY. No.

The CLERK. Mr. Feeney votes no. Mr. Neugebauer.

Mr. NEUGEBAUER. No.

The CLERK. Mr. Neugebauer votes no.  
 Chairman BOEHLERT. How is Mr. Weldon of Pennsylvania recorded?  
 The CLERK. Mr. Weldon is not recorded. Mr. Weldon votes no.  
 Chairman BOEHLERT. Mr. Calvert of California.  
 The CLERK. Mr. Calvert is not recorded.  
 Mr. CALVERT. No.  
 The CLERK. Mr. Calvert votes no.  
 Chairman BOEHLERT. Mr. Nethercutt.  
 The CLERK. Mr. Nethercutt is not recorded.  
 Mr. NETHERCUTT. No.  
 The CLERK. Mr. Nethercutt votes no.  
 Chairman BOEHLERT. Mr. Feeney.  
 The CLERK. Mr. Feeney is recorded as no.  
 Chairman BOEHLERT. Wonderful.  
 The CLERK. Mr. Hall. Mr. Hall votes yes. Mr. Gordon.  
 Mr. GORDON. Yes.  
 The CLERK. Mr. Gordon votes yes. Mr. Costello.  
 Mr. COSTELLO. Aye.  
 The CLERK. Mr. Costello votes yes. Ms. Johnson.  
 Ms. JOHNSON. Yes.  
 The CLERK. Ms. Johnson votes yes. Ms. Woolsey.  
 Ms. WOOLSEY. Yes.  
 The CLERK. Mr. Lampson.  
 Mr. LAMPSON. Aye.  
 The CLERK. Mr. Lampson votes yes. Mr. Larson. Mr. Udall.  
 Mr. UDALL. Yes.  
 The CLERK. Mr. Udall votes yes. Mr. Wu. Mr. Honda. Mr. Bell.  
 Mr. BELL. Yes.  
 The CLERK. Mr. Bell votes yes. Mr. Miller.  
 Mr. MILLER. Aye.  
 The CLERK. Mr. Miller votes yes. Mr. Davis. Ms. Jackson Lee.  
 Ms. JACKSON LEE. Aye.  
 The CLERK. Ms. Jackson Lee votes yes. Ms. Lofgren.  
 Ms. LOFGREN. Aye.  
 The CLERK. Ms. Lofgren votes yes. Mr. Sherman. Mr. Baird. Mr. Moore.  
 Mr. MOORE. Aye.  
 The CLERK. Mr. Moore votes yes. Mr. Weiner. Mr. Mathison.  
 Mr. MATHISON. Aye.  
 The CLERK. Mr. Mathison votes yes. Mr. Cardoza.  
 Chairman BOEHLERT. The Clerk will report.  
 The CLERK. Mr. Chairman, yes 12, no 18.  
 Chairman BOEHLERT. The amendment is not agreed to. Are there any further amendments?  
 Mr. HALL. Mr. Chairman.  
 Chairman BOEHLERT. Mr. Hall.  
 Mr. HALL. I have an amendment at the desk.  
 Chairman BOEHLERT. A member will suspend. The Chair recognizes Mr. Forbes.  
 Mr. FORBES. Mr. Chairman, I wish to reserve a point of order.  
 Chairman BOEHLERT. The gentleman wishes to preserve a point of order. The gentleman may proceed with his amendment. The Clerk will distribute the amendment.

Mr. HALL. Mr. Chairman, when I had the other amendment, I had four different points in it, and we discussed all four—excuse me. I'll go—that's—yes.

Chairman BOEHLERT. Mr. Hall, to report the amendment.

The CLERK. Amendment to H.R. 1085 offered by Mr. Hall of Texas.

Chairman BOEHLERT. May I ask unanimous consent that the amendment be considered as read.

Chairman BOEHLERT. Mr. Hall is recognized for 5 minutes.

Mr. HALL. Mr. Chairman, thank you. We have discussed this amendment. It was part of the amendment that I offered a while ago, and it was rendered as not germane, but during the discussion, I understood, and maybe I misunderstood, but I understood to say the Chairman liked part of the amendment and I tried to hear him say that he thought part of it was germane, and if I did hear him say that, I am sure the part that he thought was germane was the part that alluded to the crew escape systems, because we have all talked about that and needed it.

There is something that we ought to do, and that is what this amendment does. It doesn't tell them to go right out and start building it at this time. It alludes to safety, and safety involves the first step of getting ideas. It simply says upon enactment of this Act, the Administrator shall issue a request to the aerospace industry and other interested persons for concepts to increase space shuttle crew survivability for a crew of six or seven astronauts by at least a factor of 20, relative to the demonstrated crew survival rate of the space shuttle to date, and then each of those concepts provided in response were to include estimates of the cost. Just giving us the background and how much it would take to do this, showing types of designs, and then the Administrator shall submit to the Committee on Science of the House of Representatives, their honorable Chairman, the distinguished gentleman from New York, the very handsome leader of this Committee here, with generous outlooks toward his minority lesser lower Democrats that sit to the right of him. And within 270 days after the date of the enactment of this Act, concepts received in response to the request issued under the first sentence of this, and any concept developed by the National Aeronautics and Space Administration to achieve the same crew survivability improvement.

This is safety itself. It has safety written all over it. It involves the crew. We have members on this side who have given press releases saying they are not going to support the launching of any more of our shuttles unless we have some definite answers and more definite answers. We don't have those answers yet. They are not yet—they may not even be definite when we get them from the Admiral and his group.

This is safety at its very best. It is only a first step. Get the ideas and get the costs. How can that not be germane? I urge this Chairman, and I am going to tell the Chairman ahead of time, I am not going to appeal his ruling. It puts others over there who feel as I do in a difficult position, puts you in a position where your folks might question whether or not you are really and truly for crew escape, and I know all of you are for that. I am not going to appeal the ruling. I urge the Chair to give me a vote on this.



Chairman BOEHLERT. The distinguished Ranking Member didn't exactly hear me correct—correctly. We didn't say component parts were germane. We said, in essence, I like the overall thrust of the amendment. I like the idea that we are focusing on safety. I like so many of the ideas embodied in the Hall amendment in principle, but this is not the time, this is not the vehicle, and we double-checked with the parliamentarian, and the parliamentarian says the component part is no more germane than the amendment in its entirety, and for that reason, I must oppose it.

Mr. HALL. Mr. Chairman, before you decide, hear me a little further.

Chairman BOEHLERT. I welcome the opportunity to hear you a little further.

Mr. HALL. In a letter, you questioned the use of the remaining shuttles. Would you think it was more germane if you knew that it wasn't going to be included in the Admiral's report, and don't you know that if the Administrator is standing there and taking the position that he has taken from the word go, that it is too expensive, can it be too expensive for safety, for the safety of those young people that are surveying, the Magellans and Columbuses of space?

Chairman BOEHLERT. That is why I am anxiously awaiting the Gehman Commission report. I am anxiously looking forward to the opportunity to digest that report, and factor in in our deliberations on reauthorization of the NASA program, the recommendations of the Gehman Commission.

Mr. HALL. One last word. They plan on more launches, and some even hope they will have launches before the end of the year. We are going to be gone. We are gone for 30 days. We come back, we are going to leave here in October. We need to have this underway.

Chairman BOEHLERT. Mr. Hall.

Mr. HALL. I urge you to reconsider the germaneness of this.

Chairman BOEHLERT. I have reconsidered it.

Mr. HALL. And that is my last plea.

Chairman BOEHLERT. I have reconsidered it a couple of times and I would not have directed a personal inquiry to the parliamentarian if I wasn't serious about this. You and I both know that we are not going to launch another shuttle before the end of this year. You and I both know, to the person on this Committee, we are not going to give the green light to anyone who doesn't consider the full impact and recommendations of the Gehman Commission. We are not going to compromise on safety. We are going to do our job in a very responsible way and we are going to do it with the right vehicle, and that is the reauthorization of NASA with the benefit of the *Columbia* accident investigation report before us, so that we have a chance to study it, to analyze it, to react to it and to restudy it and reanalyze it and react to it yet again, and those deliberations that we have in connection with our reauthorization, I can assure you, will emphasize safety, safety, safety.

Mr. LAMPSON. Mr. Chairman.

Chairman BOEHLERT. Who sees Lampson? Is this the Texas cabal?

Mr. LAMPSON. What—how can we gain the assurance that there is going to be an authorization bill during this year?

Chairman BOEHLERT. You can't gain that assurance. You can gain the assurance that we are going to probably commence deliberations on reauthorization, but it is unlikely that we will finish it by the end of this year, and then we will go into early '04, but I can give you the assurance that this Member, as one individual out of the full Committee, as one Member out of 435, is committed to the proposition that we are going to take the Gehman Report, we are going to evaluate every single recommendation in that report. Incidentally, there are going to be a whole checklist of recommendations of things that should be done before we return to flight, and you know what, I am going to take those darn seriously, and no one is going to say to me, well, we don't have to this, or we don't have to do that, or that is inconvenient, or we don't like that idea. I am going to give it the full attention it deserves.

Mr. LAMPSON. Well, would you agree that the—we will have some vehicle within which to put these concerns down, to make NASA give us information back that we have been asking for months and months and in some cases years?

Chairman BOEHLERT. Oh, sure.

Mr. LAMPSON. And have not gotten it.

Chairman BOEHLERT. Sure. I am not reluctant, yet we don't need some bill like this. NASA had better understand that its future depends upon a lot of things, and one of the things that are going to help determine that future is the response NASA gives to this Committee for legitimate questions, legitimate expressions of concern. No one is just going to roll back and say whatever you want, you guys. We are going to do whatever you say. That is not the way this Committee operates on either side of the center aisle.

Mr. LAMPSON. I think that is part of what my frustration is, and perhaps it is what—some of what Mr. Hall's may be. We have asked these things time and time again, and I have gone to the centers, I have talked with the folks that deal with these things. I have sat down with the—with people like—with companies that do have proposals to put on the table an idea about a type of crew capsule for crew safety. All of these things are being talked of, thought about, dreamed of, worked on, spent money on, yet when we ask NASA, they will not respond to us, and I would truly like us to make a special effort to get to a point where we can put this—put it down to them in such a way that they will give us a response, and I am hoping that this might be the vehicle now.

Chairman BOEHLERT. I would just say everything changed, or so much changed on the morning of February 1. NASA now is almost like the deer in the headlights. I mean, NASA is under the very close scrutiny of a whole wide range of people, not just in this Committee, but in the Congress, but all across America, so when we demand—make legitimate demands on NASA, they for darn sure are going to respond to them, or else they are going to have some serious problems in going forward with their program. I think they don't want serious problems going forward with their programs. They are going to respond to our legitimate demands, but this vehicle, this narrowly-crafted bill, to deal with a specific need identified at NASA, should go forward without being encumbered with amendments that are not germane, no matter how well-intentioned, no matter how thoughtful, no matter how real beneficial in

the long run. If this were the only vehicle going forward, I would say well, gee—the train is leaving, this is our only choice, but that is not the case at all. So unless someone else seeks recognition, the vote is—Mr. Forbes.

Mr. FORBES. Mr. Chairman, despite the articulate and very compelling appeal of the distinguished gentleman from Texas, I must respectfully press my point of order that the amendment is not germane to the bill.

Chairman BOEHLERT. The Chair is ready to rule. The gentleman raising the point of order is correct. The amendment is not germane and is out of order. That is the ruling of the Chair.

Are there any further amendments? Hearing none, the question is on the bill, H.R. 1085, the NASA Flexibility Act of 2003 is amended. All those in favor will say aye. Aye. All those opposed will say no. In the opinion of the Chair, the ayes have it.

Mr. HALL. Chair.

Chairman BOEHLERT. I will now recognize Mr. Hall. The Clerk will call the roll. A recorded vote has been requested—suspend for one second. The Chair recognizes Mr. Hall.

Mr. HALL. Mr. Chairman, I want a recorded vote on the motion to report.

Chairman BOEHLERT. The chair recognizes Mr. Rohrabacher.

Mr. ROHRABACHER. Mr. Chairman, I move that the Committee report the bill H.R. 1085 as amended with the recommendation that the bill as amended do pass. Furthermore, I move to instruct the staff to prepare the legislative report to make technical and conforming amendments, and that the Chairman take all necessary steps to bring the bill before the House for consideration.

Chairman BOEHLERT. The Chair notes the presence of a reported quorum. The question is on the motion to report the bill favorably. Those in favor of the motion will signify by saying aye. Those opposed no. The ayes have it.

Mr. HALL. Mr. Chairman, I request a recorded vote.

Chairman BOEHLERT. The gentleman has requested a recorded vote. The Clerk will call the roll.

The CLERK. Mr. Boehlert.

Chairman BOEHLERT. Aye.

The CLERK. Mr. Boehlert votes yes. Mr. Lamar Smith. Mr. Weldon.

Mr. WELDON. Aye.

The CLERK. Mr. Weldon votes yes. Mr. Rohrabacher.

Mr. ROHRABACHER. Aye.

The CLERK. Mr. Rohrabacher votes yes. Mr. Barton. Mr. Calvert. Mr. Nick Smith.

Mr. SMITH. Aye.

The CLERK. Mr. Smith votes yes. Mr. Bartlett. Mr. Bartlett votes yes. Mr. Ehlers.

Mr. EHLERS. Aye.

The CLERK. Mr. Ehlers votes yes. Mr. Gutknecht. Mr. Gutknecht votes yes. Mr. Nethercutt.

Mr. NETHERCUTT. Aye.

The CLERK. Mr. Nethercutt votes yes. Mr. Lucas.

Mr. LUCAS.

The CLERK. Mr. Lucas votes yes. Mrs. Biggert.

Ms. BIGGERT. Aye.  
The CLERK. Mrs. Biggert votes yes. Mr. Gilchrest. Mr. Akin.  
Mr. AKIN. Yes.  
The CLERK. Mr. Akin votes yes. Mr. Johnson.  
Mr. JOHNSON. Yes.  
The CLERK. Mr. Johnson votes yes. Ms. Hart. Mr. Sullivan. Mr. Forbes.  
Mr. FORBES. Yes.  
The CLERK. Mr. Forbes votes yes. Mr. Gingrey.  
Mr. GINGREY. Yes.  
The CLERK. Mr. Gingrey votes yes. Mr. Bishop. Mr. Bishop votes yes. Mr. Burgess.  
Mr. BURGESS. Yes.  
The CLERK. Mr. Burgess votes yes. Mr. Bonner. Mr. Feeney.  
Mr. FEENEY. Yes.  
The CLERK. Mr. Feeney votes yes. Mr. Neugebauer.  
Mr. NEUGEBAUER. Yes.  
The CLERK. Mr. Neugebauer votes yes.  
Chairman BOEHLERT. How is Mr. Calvert recorded?  
The CLERK. Mr. Calvert is not recorded. Mr. Calvert votes yes.  
Chairman BOEHLERT. How is Mr. Smith of Texas recorded?  
The CLERK. Mr. Smith is not recorded. Mr. Smith votes yes. Mr. Hall.  
Mr. HALL. No.  
The CLERK. Mr. Hall votes no. Mr. Gordon.  
Mr. GORDON. No.  
The CLERK. Mr. Gordon votes no. Mr. Costello.  
Mr. COSTELLO. No.  
The CLERK. Mr. Costello votes no. Ms. Johnson. Ms. Johnson votes no. Ms. Woolsey. Mr. Lampson.  
Mr. LAMPSON. No.  
The CLERK. Mr. Lampson votes no. Mr. Larson. Mr. Udall.  
Mr. UDALL. No.  
The CLERK. Mr. Udall votes no. Mr. Wu. Mr. Honda.  
Mr. HONDA. No.  
The CLERK. Mr. Honda votes no. Mr. Bell.  
Mr. BELL. No.  
The CLERK. Mr. Bell votes no. Mr. Miller.  
Mr. MILLER. No.  
The CLERK. Mr. Miller votes no. Mr. Davis. Ms. Jackson Lee.  
Ms. JACKSON LEE. No.  
The CLERK. Ms. Jackson Lee votes no. Ms. Lofgren.  
Ms. LOFGREN. Aye.  
The CLERK. Ms. Lofgren votes yes. Mr. Sherman. Mr. Baird.  
Mr. BAIRD. No.  
The CLERK. Mr. Baird votes no. Mr. Moore.  
Mr. MOORE. No.  
The CLERK. Mr. Moore votes no. Mr. Weiner. Mr. Mathison.  
Mr. MATHISON. No.  
The CLERK. Mr. Mathison votes no. Mr. Cardoza.  
Chairman BOEHLERT. The Clerk will report.  
The CLERK. Mr. Chairman, yes 21, no 14.  
Chairman BOEHLERT. The ayes appear to have it and the bill is favorably reported. Without objection, the motion to reconsider is

laid upon the table. I move that members have two subsequent calendar days in which to submit supplemental minority or additional views on the measure. I move pursuant to Clause 1 of Rule 22 of the Rules of the House of Representatives that the Committee authorized the Chairman to offer such motions as may be necessary in the House to go to conference with the Senate on the bill H.R. 1085, or a similar Senate bill. Without objection, so ordered. [Whereupon, the Committee proceeded to other business.]

**Talking Points**  
**Lampson Amendment to HR 1085**  
**July 22, 2003**

Over the last 10 years, NASA's workforce has been cut from 25,000 down to 18,000 employees.

Even before the Columbia accident, the future direction of many of NASA's programs such as Space Station and Space Shuttle were "To Be Determined."

America's human space flight program is adrift, with no clear vision or commitment to any goals after the completion of the International Space Station.

Given that outlook, why *should* a good scientist, engineer, or project manager seek to join NASA or stay there if offered other options?

The intent of my amendment is to require the NASA Administrator to provide Congress with a vision and a concrete set of goals for the nation's human space flight program after the International Space Station.

The basic premise is that raises and retention bonuses are not the way to keep and retain NASA employees. Rather, an exciting goal-based vision for human spaceflight is how you keep the best and brightest NASA employees.

My amendment requires the NASA Administrator, within 90 days of enactment, to establish a phased series of goals over the next 20 years including human visits to the Earth-Sun libration points and Earth-orbit crossing asteroids, deployment of a human-tended research and habitation facility on the Moon, and human expeditions to the surface and moons of Mars.

The real obstacle we face in overcoming the drift in the nation's human space flight program is not technological and it's not financial — it's the lack of commitment to get started.

A recent national Zogby poll conducted earlier this month found that more than half of the people surveyed believe we should not resume the shuttle program until the future of the space program has been redefined. 52% believe we should return to the Moon in the near future and establish a base.

We need to move outward beyond low Earth orbit. And in the process, we will revitalize our space program, energize our industrial and academic sectors, create new opportunities for international cooperation, and inspire our young people.

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**STATEMENT**

**CONGRESSWOMAN SHEILA JACKSON LEE**

**ON MURED AMENDMENT TO NASA WORKFORCE BILL**

**JULY 22, 2003**

Mr. Chairman,

As we look to rejuvenating and restructuring the NASA workforce, I hope we keep in mind an issue that we have all acknowledged and worked to correct in the past: the scarcity of minority employees at NASA, especially in senior management positions.



To address this problem, the Minority University Research and Education Division (MURED) was formed in 1990. The Division was initially placed in NASA's Office of Equal Opportunity, and its Minority University Research and Education Program (MUREP) has been very successful at combating the vast disparity in funding between majority and minority-serving institutions. **Funding minority serving institutions ensures that the NASA Administrator will have an excellent pool of diverse candidates to form the NASA workforce of the future.**

Recently, MURED, the division, has been eliminated, and MUREP, the research grant program, has been transferred to NASA's Office of Education. I will not today go into the issue of whether the transfer to Education was appropriate. I am pleased to hear that MUREP in its new home, is slated to receive good funding. However, I am concerned that losing Division status, may in the long-run cause this vital and successful program to lose its high profile, and perhaps, its funding in the future.

**This amendment will require that the Minority University Research and Education initiative is reinstated with its Division status. Ensuring that future NASA Administrators have a diverse pool of well-qualified workforce candidates to choose from is a critical component of workforce flexibility.**

I hope you can support this amendment.

Thank you.

**COMMITTEE ON SCIENCE - FULL COMMITTEE MARKUP – JULY 22, 2003  
AMENDMENT ROSTER**

**H.R. 1085, NASA Flexibility Act of 2003**

--Objection was heard to the unanimous consent request to recess the Committee at any point.

--A motion was offered to recess the Committee at any point.

--A motion was offered to table the motion to recess the Committee at any point.

--The motion to table the Chairman's authority to recess the Committee at any point was defeated by a roll call vote: Y-16; N-21.

--Motion to grant the Chairman authority to recess the Committee at any point: agreed to by a voice vote.

--Motion to adopt the bill, as amended: agreed to by a voice vote.

--Motion to report the bill, as amended: agreed to by a roll call vote: Y-21; N-14.

<b>No.</b>	<b>Sponsor</b>	<b>Description</b>	<b>Results</b>
1.	Mr. Boehlert	En bloc Amendment	--Adopted by a roll call vote: Y-22; N-16.
2.	Ms. Jackson Lee	Amendment requires NASA to explain how it will ensure that its use of new workforce authority will not compromise safety.	--Adopted by a voice vote.
3.	Mr. Miller	Amendment makes certain that certain workforce authorities are not available to political appointees.	--Perfecting second degree amendment offered by Mr. Boehlert to the amendment offered by Mr. Miller adopted by a voice vote. --Miller amendment adopted by a voice vote.
4.	Mr. Miller	Amendment eliminates the demonstration project authority in the bill.	--Defeated by a roll call vote: Y-20; N-20.
5.	Mr. Rohrabacher	Amendment clarifies language on scholarship eligibility.	--Adopted by a voice vote.
6.	Mr. Wu	Amendment would extend the science and technology scholarship provisions to permanent residents.	--Unanimous consent request to withdraw the

			amendment adopted by a voice vote.
7.	Mr. Hall	Amendment would address a number of key issues raised by the Space Shuttle Columbia accident including enhancing NASA's independent safety office directing NASA to address Space Shuttle crew escape; putting a moratorium on buyouts until the NASA Administrator certifies that critical safety skills will not be lost; and puts a moratorium on additional contracting out until NASA has responded to Congress on the recommendations of the Gehman board.	--Chair ruled the amendment non-germane to the bill. --Motion to Table the Appeal of the ruling of the Chair adopted by a roll call vote: Y-22; N-19.
8.	Ms. Eddie Bernice Johnson	Amendment adds a new section to the bill – Sec. 4—Workforce Diversity.	--Adopted by a voice vote.
9.	Mr. Gordon	Amendment establishes a requirement for a new strategic resource review for the human spaceflight program.	--Unanimous consent request to withdraw the amendment adopted by a voice vote.
10.	Mr. Lampson	Amendment establishes goals for NASA's human spaceflight program.	--Defeated by a roll call vote: Y-12; N-18.
11.	Mr. Miller	Amendment adds a new section to the bill: Sec. 4—Independent Assessment of NASA's Use of Existing Workforce Flexibilities	--Defeated by a roll call vote: Y-9; N-13.
12.	Jackson Lee	Amendment adds a new section to the bill: Sec.4—Minority University Research and Education.	--Defeated by a roll call vote: Y-12; N-18.
13.	Mr. Boehlert	Amendment repeals the second sentence of 9810(f)(1) of Title 5, United States Code (as amended by section 3(a)).	--Adopted by a voice vote.
14.	Mr. Hall	Amendment adds a new section to the bill on crew safety.	--Chair ruled the amendment non-germane to the bill.

COMMITTEE ON SCIENCE - ROLL CALL - 108<sup>th</sup> CONGRESS

DATE: \_\_\_\_\_ SUBJECT: Objection to the unanimous consent request to recess the Committee at any point.

Rm.	Phone	Member	Yes	No	Not Voting	Present	Absent
2246	53665	Mr. Boehlert, R-NY					
2231	54236	Mr. Lamar Smith, R-TX					
2466	52011	Mr. Weldon, R-PA					
2338	52415	Mr. Rohrabacher, R-CA					
2109	52002	Mr. Barton, R-TX					
2201	51986	Mr. Calvert, R-CA					
2305	56276	Mr. Nick Smith, R-MI					
2412	52721	Mr. Bartlett, R-MD					
1714	53831	Mr. Ehlers, R-MI					
425	52472	Mr. Gutknecht, R-MN					
2443	52006	Mr. Nethercutt, R-WA					
2342	55565	Mr. Lucas, R-OK					
1213	53515	Mrs. Biggert, R-IL					
2245	55311	Mr. Gilchrest, R-MD					
117	52561	Mr. Akin, R-MO					
1229	52371	Mr. Johnson, R-IL					
1508	52565	Ms. Hart, R-PA					
114	52211	Mr. Sullivan, R-OK					
307	56365	Mr. Forbes, R-VA					
1118	52931	Mr. Gingrey, R-GA					
124	50453	Mr. Bishop, R-UT					
1721	57772	Mr. Burgess, R-TX					
315	54931	Mr. Bonner, R-AL					
323	52706	Mr. Feeney, R-FL					
1026	54005	Mr. Neugebauer, R-TX					
2405	56673	Mr. Hall, D-TX					
2304	54231	Mr. Gordon, D-TN					
2454	55661	Mr. Costello, D-IL					
1511	58885	Ms. Johnson, D-TX					
2263	55161	Ms. Woolsey, D-CA					
405	56565	Mr. Lampson, D-TX					
1005	52265	Mr. Larson, D-CT					
115	52161	Mr. Udall, D-CO					
1023	50855	Mr. Wu, D-OR					
1713	52631	Mr. Honda, D-CA					
216	57508	Mr. Bell, D-TX					
1505	53032	Mr. Miller, D-NC					
504	56831	Mr. Davis, D-TN					
2435	53816	Ms. Jackson-Lee, D-TX					
102	53072	Ms. Lofgren, D-CA					
1030	55911	Mr. Sherman, D-CA					
1421	53536	Mr. Baird, D-WA					
431	52865	Mr. Moore, D-KS					
1122	56616	Mr. Weiner, D-NY					
410	53011	Mr. Matheson, D-UT					
503	56131	Mr. Cardoza, D-CA					
		Vacancy					
TOTAL			16	21			

Attest: *Victoria A. Tasseri* (Clerk)

COMMITTEE ON SCIENCE - ROLL CALL - 108<sup>th</sup> CONGRESS  
 DATE: SUBJECT: Motion to report the bill, as amended

Rm.	Phone	Member	Yes	No	Not Voting	Present	Absent
2246	53665	Mr. Boehlert, R-NY	✓				
2231	54236	Mr. Lamar Smith, R-TX	✓				
2466	52011	Mr. Weldon, R-PA	✓				
2338	52415	Mr. Rohrabacher, R-CA	✓				
2109	52002	Mr. Barton, R-TX	✓				
2201	51986	Mr. Calvert, R-CA	✓				
2305	56276	Mr. Nick Smith, R-MI	✓				
2412	52721	Mr. Bartlett, R-MD	✓				
1714	53831	Mr. Ehlers, R-MI	✓				
425	52472	Mr. Gutknecht, R-MN	✓				
2443	52006	Mr. Nethercutt, R-WA	✓				
2342	55565	Mr. Lucas, R-OK	✓				
1213	53515	Mrs. Biggert, R-IL	✓				
2245	55311	Mr. Gilchrest, R-MD	✓				
117	52561	Mr. Akin, R-MO	✓				
1229	52371	Mr. Johnson, R-IL	✓				
1508	52565	Ms. Hart, R-PA					
114	52211	Mr. Sullivan, R-OK					
307	56365	Mr. Forbes, R-VA	✓				
1118	52931	Mr. Gingrey, R-GA	✓				
124	50453	Mr. Bishop, R-UT	✓				
1721	57772	Mr. Burgess, R-TX	✓				
315	54931	Mr. Bonner, R-AL	✓				
323	52706	Mr. Feeney, R-FL	✓				
1026	54005	Mr. Neugebauer, R-TX	✓				
2405	56673	Mr. Hall, D-TX		✓			
2304	54231	Mr. Gordon, D-TN		✓			
2454	55661	Mr. Costello, D-IL		✓			
1511	58885	Ms. Johnson, D-TX		✓			
2263	55161	Ms. Woolsey, D-CA		✓			
405	56565	Mr. Lampson, D-TX		✓			
1005	52265	Mr. Larson, D-CT		✓			
115	52161	Mr. Udall, D-CO		✓			
1023	50855	Mr. Wu, D-OR		✓			
1713	52631	Mr. Honda, D-CA		✓			
216	57508	Mr. Bell, D-TX		✓			
1505	53032	Mr. Miller, D-NC		✓			
504	56831	Mr. Davis, D-TN		✓			
2435	53816	Ms. Jackson-Lee, D-TX	✓				
102	53072	Ms. Lofgren, D-CA	✓				
1030	55911	Mr. Sherman, D-CA					
1421	53536	Mr. Baird, D-WA		✓			
431	52865	Mr. Moore, D-KS		✓			
1122	56616	Mr. Weiner, D-NY		✓			
410	53011	Mr. Matheson, D-UT		✓			
503	56131	Mr. Cardoza, D-CA					
		Vacancy					
TOTAL			21	14			

Attest: *Vivian A. Thomas* (Clerk)

**EN BLOC AMENDMENTS TO H.R. 1085**

**OFFERED BY MR. BOEHLERT**

(Page & line nos. refer to the Committee Print of 7/2/03)

Page 3, in the matter before line 1, strike the item relating to section 9810 and redesignate the succeeding items accordingly.

Page 5, line 10, strike "section 9803" and insert "this chapter".

Page 5, line 23, strike "9804," and insert "9804 and".

Page 6, line 1, strike "and 9810,".

Page 6, line 12, strike "and".

Page 6, line 22, strike "technologies." and insert "technologies; and".

Page 6, after line 22, insert the following:

1           “(9) any reforms to the Administration’s work-  
2           force management practices recommended by the  
3           Columbia Accident Investigation Board, the extent  
4           to which those recommendations were accepted, and,  
5           if necessary, the reasons why any of those rec-  
6           ommendations were not accepted.

Page 7, line 4, strike "90" and insert "60".

Page 20, strike line 5 and all that follows through page 21, line 13.

Page 21, line 14, strike “9811” and insert “9810”.

Page 24, at the end of line 5, add the following:  
“Under no circumstances shall the total period of obligated service be more than 4 years.”.

Page 27, line 3, strike “9812” and insert “9811”.

Page 31, line 4, strike “9813” and insert “9812”.

Page 32, line 11, strike “9814” and insert “9813”.

Page 34, line 22, strike “9815” and insert “9814”.

Page 37, line 6, strike “9816” and insert “9815”.

Page 38, line 21, strike “9817” and insert “9816”.

Page 38, line 24, strike “10” and insert “6”.

Page 39, line 8, strike “supervisors,” and insert  
“supervisors and management officials,”.

Page 39, line 16, strike “supervisors,” and insert  
“supervisors and management officials,”.

Page 40, line 11, strike “9811” and insert “9810”.

Page 40, line 16, strike “9812” and insert “9811”.

Page 40, line 23, strike “9813” and insert “9812”.



Page 41, line 2, strike "9814" and insert "9813".

Page 41, line 11, strike "9814" and insert "9813".

Page 41, line 13, strike "9815" and insert "9814".

Page 41, line 19, strike "9816" and insert "9815".

COMMITTEE ON SCIENCE - ROLL CALL - 108<sup>th</sup> CONGRESS  
 DATE: SUBJECT: Amendment No. 1 by Mr. Bohlert

Rm.	Phone	Member	Yes	No	Not Voting	Present	Absent
2246	53665	Mr. Boehlert, R-NY	/				
2231	54236	Mr. Lamar Smith, R-TX	/				
2466	52011	Mr. Weldon, R-PA	/				
2338	52415	Mr. Rohrabacher, R-CA	/				
2109	52002	Mr. Barton, R-TX	/				
2201	51986	Mr. Calvert, R-CA	/				
2305	56276	Mr. Nick Smith, R-MI	/				
2412	52721	Mr. Bartlett, R-MD	/				
1714	53831	Mr. Ehlers, R-MI	/				
425	52472	Mr. Gutknecht, R-MN	/				
2443	52006	Mr. Nethercutt, R-WA	/				
2342	55565	Mr. Lucas, R-OK	/				
1213	53515	Mrs. Biggert, R-IL	/				
2245	55311	Mr. Gilchrest, R-MD	/				
117	52561	Mr. Akin, R-MO	/				
1229	52371	Mr. Johnson, R-IL	/				
1508	52565	Ms. Hart, R-PA	/				
114	52211	Mr. Sullivan, R-OK	/				
307	56365	Mr. Forbes, R-VA	/				
1118	52931	Mr. Gingrey, R-GA	/				
124	50453	Mr. Bishop, R-UT	/				
1721	57772	Mr. Burgess, R-TX	/				
315	54931	Mr. Bonner, R-AL	/				
323	52706	Mr. Feeney, R-FL	/				
1026	54005	Mr. Neugebauer, R-TX	/				
2405	56673	Mr. Hall, D-TX	/				
2304	54231	Mr. Gordon, D-TN	/				
2454	55661	Mr. Costello, D-IL	/				
1511	58885	Ms. Johnson, D-TX	/			/	
2263	55161	Ms. Woolsey, D-CA	/			/	
405	56565	Mr. Lampson, D-TX	/				
1005	52265	Mr. Larson, D-CT	/				
115	52161	Mr. Udall, D-CO	/				
1023	50855	Mr. Wu, D-OR	/				
1713	52631	Mr. Honda, D-CA	/				
216	57508	Mr. Bell, D-TX	/				
1505	53032	Mr. Miller, D-NC	/				
504	56831	Mr. Davis, D-TN	/				
2435	53816	Ms. Jackson-Lee, D-TX	/				
102	53072	Ms. Lofgren, D-CA	/				
1030	55911	Mr. Sherman, D-CA	/				
1421	53536	Mr. Baird, D-WA	/				
431	52865	Mr. Moore, D-KS	/				
1122	56616	Mr. Weiner, D-NY	/				
410	53011	Mr. Matheson, D-UT	/				
503	56131	Mr. Cardoza, D-CA	/				
		Vacancy					
TOTAL			22	16		1	

Attest: *Vivian A. Tessari* (Clerk)

**AMENDMENT TO H.R. 1085**

**OFFERED BY MS. JACKSON-LEE OF TEXAS**

**(Page and line nos. refer to the Committee Print of 7/2/03)**

Page 6, after line 8, insert the following (and make the necessary technical and conforming changes):

- 1           “(7) the safeguards and other measures that
- 2           will be applied to ensure that this chapter is carried
- 3           out in a manner that does not compromise the safe-
- 4           ty or survival of any spacecraft or crew thereof;

**AMENDMENT OFFERED BY MR. BOEHLERT  
TO THE AMENDMENT OFFERED BY MR. MILLER  
OF NORTH CAROLINA**

Page 1, strike lines 12 through 14 and insert the following:

- 1 as a noncareer appointee (as such term is defined in sec-
- 2 tion 3132(a)).

**AMENDMENT TO H.R. 1085****OFFERED BY** Mr. Miller**(Page and line nos. refer to the Committee Print of 7/2/03)**

Page 9, after line 21, insert the following:

1       “(c)(1) None of the workforce authorities made avail-  
2 able under section 9804, 9805, 9806, 9807, 9810, 9813,  
3 9814, 9815, or 9816 may be exercised with respect to a  
4 political appointee.

5       “(2) For purposes of this subsection, the term ‘polit-  
6 ical appointee’ means an employee who holds—

7               “(A) a position which has been excepted from  
8 the competitive service by reason of its confidential,  
9 policy-determining, policy-making, or policy-advo-  
10 cating character; or

11               “(B) a position in the Senior Executive Service  
12 as a noncareer appointee, limited term appointee, or  
13 limited emergency appointee (as such terms are de-  
14 fined in section 3132(a)).

**AMENDMENT TO H.R. 1085**

**OFFERED BY** Mr. Miller

(Page and line nos. refer to the Committee Print of 7/2/03)

Page 20, strike lines 1 through 4 (and make the necessary technical and conforming changes).

COMMITTEE ON SCIENCE - ROLL CALL - 108<sup>th</sup> CONGRESS  
 DATE: SUBJECT: Amendment No. 4 by Mr. Miller

Rm.	Phone	Member	Yes	No	Not Voting	Present	Absent
2246	53665	Mr. Boehlert, R-NY					
2231	54236	Mr. Lamar Smith, R-TX					
2466	52011	Mr. Weldon, R-PA					
2338	52415	Mr. Rohrabacher, R-CA					
2109	52002	Mr. Barton, R-TX					
2201	51986	Mr. Calvert, R-CA					
2305	56276	Mr. Nick Smith, R-MI					
2412	52721	Mr. Bartlett, R-MD					
1714	53831	Mr. Ehlers, R-MI					
425	52472	Mr. Gutknecht, R-MN					
2443	52006	Mr. Nethercutt, R-WA					
2342	55565	Mr. Lucas, R-OK					
1213	53515	Mrs. Biggert, R-IL					
2245	55311	Mr. Gilchrest, R-MD					
117	52561	Mr. Akin, R-MO					
1229	52371	Mr. Johnson, R-IL					
1508	52565	Ms. Hart, R-PA					
114	52211	Mr. Sullivan, R-OK					
307	56365	Mr. Forbes, R-VA					
1118	52931	Mr. Gingrey, R-GA					
124	50453	Mr. Bishop, R-UT					
1721	57772	Mr. Burgess, R-TX					
315	54931	Mr. Bonner, R-AL					
323	52706	Mr. Feeney, R-FL					
1026	54005	Mr. Neugebauer, R-TX					
2405	56673	Mr. Hall, D-TX					
2304	54231	Mr. Gordon, D-TN					
2454	55661	Mr. Costello, D-IL					
1511	58885	Ms. Johnson, D-TX					
2263	55161	Ms. Woolsey, D-CA					
405	56565	Mr. Lampsom, D-TX					
1005	52265	Mr. Larson, D-CT					
115	52161	Mr. Udall, D-CO					
1023	50855	Mr. Wu, D-OR					
1713	52631	Mr. Honda, D-CA					
216	57508	Mr. Bell, D-TX					
1505	53032	Mr. Miller, D-NC					
504	56831	Mr. Davis, D-TN					
2435	53816	Ms. Jackson-Lee, D-TX					
102	53072	Ms. Lofgren, D-CA					
1030	55911	Mr. Sherman, D-CA					
1421	53536	Mr. Baird, D-WA					
431	52865	Mr. Moore, D-KS					
1122	56616	Mr. Weiner, D-NY					
410	53011	Mr. Matheson, D-UT					
503	56131	Mr. Cardoza, D-CA					
		Vacancy					
TOTAL			20	20			

Attest: *Victoria A. Jensen* (Clerk)

**AMENDMENT TO H.R. 1085**  
**OFFERED BY MR. ROHRABACHER**

(Page and line nos. refer to the Committee Print of 7/2/03)

Page 22, strike lines 11 through 15 and insert the following:

- 1           “(1) be enrolled or accepted for enrollment as
- 2           a full-time student at an institution of higher edu-
- 3           cation, as a junior or senior undergraduate or grad-
- 4           uate student, in an academic field or discipline de-
- 5           scribed in the list made available under subsection
- 6           (d);
- 7           “(2) be a United States citizen or a permanent
- 8           resident; and



**AMENDMENT TO H.R. 1085**

**OFFERED BY MR. WU**

(Page and line nos. refer to the Committee Print of 7/2/03)

Page 22, strike line 15 and insert the following:

- 1           “(2) be a United States citizen or an alien ad-
- 2           mitted to the United States for permanent residence;
- 3           and

**AMENDMENT TO H.R. 1085****OFFERED BY MR. HALL**

(Page and line nos. refer to the Committee Print of 7/2/03)

Page 42, add at the end the following:

1 **SEC. 4. RESPONSE TO FINDINGS AND RECOMMENDATIONS**  
2 **OF THE COLUMBIA ACCIDENT INVESTMENT**  
3 **BOARD.**

4 (a) INDEPENDENT SAFETY INSPECTORS.—Notwith-  
5 standing any other provision of law—

6 (1) the civil service personnel ceiling for the Of-  
7 fice of Safety and Mission Assurance at National  
8 Aeronautics and Space Administration Headquarters  
9 shall be no less than 86 positions;

10 (2) \$50,000,000 is authorized to be appro-  
11 priated for fiscal year 2004 for the Office of Safety  
12 and Mission Assurance; and

13 (3) within 60 days after the date of the enact-  
14 ment of this Act, the Administrator shall submit to  
15 the Committee on Science of the House of Rep-  
16 resentatives and the Committee on Commerce,  
17 Science, and Transportation of the Senate a re-  
18 sponse to the findings and recommendations of the  
19 Columbia Accident Investigation Board relating to  
20 safety and mission assurance.

1 (b) CREW SAFETY.—Upon enactment of this Act, the  
2 Administrator shall issue a request to the aerospace indus-  
3 try and other interested persons for concepts to increase  
4 Space Shuttle crew survivability for a crew of 6 or 7 astro-  
5 nauts by at least a factor of 20 relative to the dem-  
6 onstrated crew survival rate of the Space Shuttle to date.  
7 Each concept provided in response to such request shall  
8 include estimates of the cost and time required to imple-  
9 ment it, as well as its effect on Space Shuttle performance.  
10 The Administrator shall submit to the Committee on  
11 Science of the House of Representatives and the Com-  
12 mittee on Commerce, Science, and Transportation of the  
13 Senate, within 270 days after the date of the enactment  
14 of this Act—

15 (1) concepts received in response to the request  
16 issued under the first sentence of this subsection;  
17 and

18 (2) any concepts developed by the National Aer-  
19 onautics and Space Administration to achieve the  
20 same crew survivability improvement.

21 (c) MORATORIUM ON VOLUNTARY SEPARATION IN-  
22 CENTIVE PAYMENTS.—No voluntary separation incentive  
23 payments as provided for in subchapter II of chapter 35  
24 of title 5, United States Code (including under section  
25 9810 of such title, as added by section 3(a)) shall be made

1 unless the Administrator has first certified to the Con-  
2 gress that no skills related to the safety of the Space Shut-  
3 tle or the International Space Station or to the conduct  
4 of independent safety oversight in the National Aero-  
5 nautics and Space Administration would be lost thereby.

6 (d) MORATORIUM ON CONTRACTING OUT.—Effective  
7 beginning on the date of the enactment of this Act, the  
8 National Aeronautics and Space Administration shall  
9 make no decision, with respect to any function performed  
10 that is related to human space flight, to privatize,  
11 outsource, contract out, or contract for the performance  
12 of such function, or to conduct a study to convert the per-  
13 formance of such function to the performance by a con-  
14 tractor. This subsection shall not apply to work performed  
15 by the private sector prior to the date of the enactment  
16 of this Act. The first sentence of this subsection shall re-  
17 main in effect until 90 days after the date on which the  
18 Administrator—

19 (1) has provided the Committee on Science of  
20 the House of Representatives and the Committee on  
21 Commerce, Science, and Transportation of the Sen-  
22 ate with responses to all Columbia Accident Inves-  
23 tigation Board management-related recommenda-  
24 tions;

1           (2) has implemented all of the recommendations  
2           of the Columbia Accident Investigation Board, with  
3           the exception of those recommendations defined by  
4           the Columbia Accident Investigation Board as long-  
5           term in nature; and

6           (3) has contracted with the National Academy  
7           of Public Administration to conduct an independent  
8           assessment of whether the division of jobs between  
9           inherently governmental and commercial in the 2002  
10          FAIR Act Inventory prepared by the National Aero-  
11          nautics and Space Administration is consistent with  
12          the findings and recommendations of the Columbia  
13          Accident Investigation Board, and such assessment  
14          has been provided to the Committee on Science of  
15          the House of Representatives and the Committee on  
16          Commerce, Science, and Transportation of the Sen-  
17          ate.

18          (e) ADMINISTRATOR DEFINED.—For purposes of this  
19          section, the term “Administrator” means the Adminis-  
20          trator of the National Aeronautics and Space Administra-  
21          tion.

COMMITTEE ON SCIENCE - ROLL CALL - 108<sup>th</sup> CONGRESS Amendment No. 7 by Mr. Hall  
 DATE: SUBJECT: Motion to Table the Appeal of the ruling of

Rm.	Phone	Member	Yes	No	Not Voting	Present	Absent
		the Chair on germaneness.					
2246	53665	Mr. Boehlert, R-NY	/				
2231	54236	Mr. Lamar Smith, R-TX	/				
2466	52011	Mr. Weldon, R-PA	/				
2338	52415	Mr. Rohrabacher, R-CA	/				
2109	52002	Mr. Barton, R-TX	/				
2201	51986	Mr. Calvert, R-CA	/				
2305	56276	Mr. Nick Smith, R-MI	/				
2412	52721	Mr. Bartlett, R-MD	/				
1714	53831	Mr. Ehlers, R-MI	/				
425	52472	Mr. Gutknecht, R-MN	/				
2443	52006	Mr. Nethercutt, R-WA	/				
2342	55565	Mr. Lucas, R-OK	/				
1213	53515	Mrs. Biggert, R-IL	/				
2245	55311	Mr. Gilchrest, R-MD	/				
117	52561	Mr. Akin, R-MO	/				
1229	52371	Mr. Johnson, R-IL	/				
1508	52565	Ms. Hart, R-PA	/				
114	52211	Mr. Sullivan, R-OK	/				
307	56365	Mr. Forbes, R-VA	/				
1118	52931	Mr. Gingrey, R-GA	/				
124	50453	Mr. Bishop, R-UT	/				
1721	57772	Mr. Burgess, R-TX	/				
315	54931	Mr. Bonner, R-AL	/				
323	52706	Mr. Feeney, R-FL	/				
1026	54005	Mr. Neugebauer, R-TX	/				
2405	56673	Mr. Hall, D-TX		/			
2304	54231	Mr. Gordon, D-TN		/			
2454	55661	Mr. Costello, D-IL		/			
1511	58885	Ms. Johnson, D-TX		/			
2263	55161	Ms. Woolsey, D-CA		/			
405	56565	Mr. Lampson, D-TX		/			
1005	52265	Mr. Larson, D-CT		/			
115	52161	Mr. Udall, D-CO		/			
1023	50855	Mr. Wu, D-OR		/			
1713	52631	Mr. Honda, D-CA		/			
216	57508	Mr. Bell, D-TX		/			
1505	53032	Mr. Miller, D-NC		/			
504	56831	Mr. Davis, D-TN		/			
2435	53816	Ms. Jackson-Lee, D-TX		/			
102	53072	Ms. Lofgren, D-CA		/			
1030	55911	Mr. Sherman, D-CA		/			
1421	53536	Mr. Baird, D-WA		/			
431	52865	Mr. Moore, D-KS		/			
1122	56616	Mr. Weiner, D-NY		/			
410	53011	Mr. Matheson, D-UT		/			
503	56131	Mr. Cardoza, D-CA		/			
		Vacancy					
TOTAL			22	19			

Attest: *William A. Jensen* (Clerk)

**AMENDMENT TO H.R. 1085**  
**OFFERED BY MS. EDDIE BERNICE JOHNSON OF**  
**TEXAS**

(Page and line nos. refer to the Committee Print of 7/2/03)

Page 42, add at the end the following:

**1 SEC. 4. WORKFORCE DIVERSITY.**

2 It is the sense of the Congress that the National Aer-  
3 onautics and Space Administration should, in accordance  
4 with section 7201 of title 5, United States Code, conduct  
5 a continuing program for the recruitment of members of  
6 minority groups for positions in the Administration to  
7 carry out the policy set forth in subsection (b) of such  
8 section in a manner designed to eliminate underrepresen-  
9 tation of minorities in the various categories of civil service  
10 employment within the Federal service, with special efforts  
11 directed at recruiting in minority communities, in edu-  
12 cational institutions, and from other sources from which  
13 minorities can be recruited.

**AMENDMENT TO H.R. 1085****OFFERED BY MR. GORDON**

(Page and line nos. refer to the Committee Print of 7/2/03)

Page 42, add at the end the following:

1 **SEC. 4. STRATEGIC RESOURCES REVIEW FOR HUMAN**  
2 **SPACE FLIGHT.**

3 (a) **IN GENERAL.**—The Administrator shall conduct  
4 a strategic resources review of the National Aeronautics  
5 and Space Administration's human space flight programs  
6 with the objective of determining the workforce needed to  
7 support the National Aeronautics and Space Administra-  
8 tion's human space flight goals over the next 20 years,  
9 as well as the infrastructure needed to support the work-  
10 force during that 20-year period.

11 (b) **CONTENT OF REVIEW.**—The strategic resources  
12 review shall consist of the following:

13 (1) A statement of the National Aeronautics  
14 and Space Administration's human space flight  
15 goals over the 20-year period referred to in sub-  
16 section (a).

17 (2) A determination of the civil service work-  
18 force levels needed on an annual basis, by Center  
19 and by skill level, to support the goals identified  
20 under paragraph (1).



1           (3) Identification of any shortfalls in existing or  
2           planned civil service workforce levels relative to the  
3           needs enumerated under paragraph (2).

4           (4) Identification of infrastructure needed, by  
5           Center, to support the goals identified under para-  
6           graph (1), including enumeration of any existing in-  
7           frastructure that will need to be upgraded or modi-  
8           fied.

9           (c) REPORT.—The Administrator shall submit a re-  
10          port containing the results of the strategic resources re-  
11          view to the Committee on Science of the House of Rep-  
12          resentatives and the Committee on Commerce, Science,  
13          and Transportation of the Senate within 1 year after the  
14          date of the enactment of this Act.

18          (d) ADMINISTRATOR DEFINED.—For purposes of this  
19          section, the term “Administrator” means the Adminis-  
20          trator of the National Aeronautics and Space Administra-  
21          tion.

**AMENDMENT TO H.R. 1085**  
**OFFERED BY MR. LAMPSON**

(Page and line nos. refer to the Committee Print of 7/2/03)

Page 42, add at the end the following:

1 **SEC. 4. GOALS FOR THE HUMAN SPACE FLIGHT PROGRAM.**

2 (a) **ENHANCEMENT OF NASA RECRUITMENT AND**  
3 **RETENTION EFFORTS.**—In order to inspire the National  
4 Aeronautics and Space Administration's existing work-  
5 force and to attract the best and brightest individuals to  
6 a career with the National Aeronautics and Space Admin-  
7 istration, the Administrator shall establish specific and  
8 phased exploration goals for the human space flight pro-  
9 gram.

10 (b) **SPECIFIC REQUIREMENTS.**—Within 90 days after  
11 the date of the enactment of this Act, the Administrator—

12 (1) shall establish a phased series of human ex-  
13 ploration goals for the next 20 years, including  
14 human visits to Earth-Sun libration points and  
15 Earth-orbit crossing asteroids, deployment of a  
16 human-tended research and habitation facility on the  
17 surface of the Moon, and human expeditions to the  
18 surface and moons of Mars; and

19 (2) shall submit to the Committee on Science of  
20 the House of Representatives and the Committee on

1 Commerce, Science, and Transportation of the Sen-  
2 ate a report setting forth the phased human explo-  
3 ration goals established under this section.

4 (c) ADMINISTRATOR DEFINED.—For purposes of this  
5 section, the term “Administrator” means the Adminis-  
6 trator of the National Aeronautics and Space Administra-  
7 tion.

COMMITTEE ON SCIENCE - ROLL CALL - 108<sup>th</sup> CONGRESS  
 DATE: SUBJECT: Amendment No. 10 by Mr. Lampson

Rm.	Phone	Member	Yes	No	Not Voting	Present	Absent
2246	53665	Mr. Boehlert, R-NY		✓			
2231	54236	Mr. Lamar Smith, R-TX		✓			
2466	52011	Mr. Weldon, R-PA		✓			
2338	52415	Mr. Rohrabacher, R-CA		✓			
2109	52002	Mr. Barton, R-TX		✓			
2201	51986	Mr. Calvert, R-CA		✓			
2305	56276	Mr. Nick Smith, R-MI		✓			
2412	52721	Mr. Bartlett, R-MD		✓			
1714	53831	Mr. Ehlers, R-MI		✓			
425	52472	Mr. Gutknecht, R-MN		✓			
2443	52006	Mr. Nethercutt, R-WA		✓			
2342	55565	Mr. Lucas, R-OK		✓			
1213	53515	Mrs. Biggert, R-IL		✓			
2245	55311	Mr. Gilchrest, R-MD		✓			
117	52561	Mr. Akin, R-MO		✓			
1229	52371	Mr. Johnson, R-IL		✓			
1508	52565	Ms. Hart, R-PA		✓			
114	52211	Mr. Sullivan, R-OK		✓			
307	56365	Mr. Forbes, R-VA		✓			
1118	52931	Mr. Gingrey, R-GA		✓			
124	50453	Mr. Bishop, R-UT		✓			
1721	57772	Mr. Burgess, R-TX		✓			
315	54931	Mr. Bonner, R-AL		✓			
323	52706	Mr. Feeney, R-FL		✓			
1026	54005	Mr. Neugebauer, R-TX		✓			
2405	56673	Mr. Hall, D-TX	✓				
2304	54231	Mr. Gordon, D-TN	✓				
2454	55661	Mr. Costello, D-IL	✓				
1511	58885	Ms. Johnson, D-TX	✓				
2263	55161	Ms. Woolsey, D-CA	✓				
405	56565	Mr. Lampson, D-TX	✓				
1005	52265	Mr. Larson, D-CT	✓				
115	52161	Mr. Udall, D-CO	✓				
1023	50855	Mr. Wu, D-OR					
1713	52631	Mr. Honda, D-CA					
216	57508	Mr. Bell, D-TX	✓				
1505	53032	Mr. Miller, D-NC	✓				
504	56831	Mr. Davis, D-TN					
2435	53816	Ms. Jackson-Lee, D-TX					
102	53072	Ms. Lofgren, D-CA	✓				
1030	55911	Mr. Sherman, D-CA					
1421	53536	Mr. Baird, D-WA	✓				
431	52865	Mr. Moore, D-KS	✓				
1122	56616	Mr. Weiner, D-NY	✓				
410	53011	Mr. Matheson, D-UT	✓				
503	56131	Mr. Cardoza, D-CA					
		Vacancy					
TOTAL			12	18			

Attest: *Veronica A. Ferraro* (Clerk)

**AMENDMENT TO H.R. 1085****OFFERED BY** Mr. Miller

(Page and line nos. refer to the Committee Print of 7/2/03)

Page 42, add at the end the following:

1 **SEC. 4. INDEPENDENT ASSESSMENT OF NASA'S USE OF EX-**  
2 **ISTING WORKFORCE FLEXIBILITIES.**

3 (a) **IN GENERAL.**—The Administrator shall, to the  
4 extent or in the amounts provided in advance in appropria-  
5 tion Acts, contract with the National Academy of Public  
6 Administration for an independent assessment and review  
7 of whether or not the National Aeronautics and Space Ad-  
8 ministration is making full use of the workforce flexibili-  
9 ties available to it under existing law and regulation, and,  
10 to the extent that those flexibilities are not being fully uti-  
11 lized, identification of the reasons why not.

12 (b) **REPORT.**—The National Academy of Public Ad-  
13 ministration shall submit its report directly to the Com-  
14 mittee on Science of the House of Representatives and the  
15 Committee on Commerce, Science, and Transportation of  
16 the Senate, as well as the National Aeronautics and Space  
17 Administration, within 180 days after the date of the en-  
18 actment of this Act. The Administrator shall submit to  
19 those committees of Congress the National Aeronautics  
20 and Space Administration's response to the findings con-

1 tained in such report within 210 days after the date of  
2 the enactment of this Act.

3 (e) LIMITATION.—Section 3 shall not take effect until  
4 the 90th day after the date on which Administrator’s re-  
5 sponse under subsection (b) has been submitted.

6 (d) ADMINISTRATOR DEFINED.—For purposes of  
7 this section, the term “Administrator” means the Admin-  
8 istrator of the National Aeronautics and Space Adminis-  
9 tration.

COMMITTEE ON SCIENCE - ROLL CALL - 108<sup>th</sup> CONGRESS  
 DATE: SUBJECT: Amendment No. 11 by Mr. Miller

Rm.	Phone	Member	Yes	No	Not Voting	Present	Absent
2246	53665	Mr. Boehlert, R-NY		✓			
2231	54236	Mr. Lamar Smith, R-TX		✓			
2466	52011	Mr. Weldon, R-PA		✓			
2338	52415	Mr. Rohrabacher, R-CA		✓			
2109	52002	Mr. Barton, R-TX		✓			
2201	51986	Mr. Calvert, R-CA		✓			
2305	56276	Mr. Nick Smith, R-MI		✓			
2412	52721	Mr. Bartlett, R-MD		✓			
1714	53831	Mr. Ehlers, R-MI		✓			
425	52472	Mr. Gutknecht, R-MN		✓			
2443	52006	Mr. Nethercutt, R-WA		✓			
2342	55565	Mr. Lucas, R-OK		✓			
1213	53515	Mrs. Biggert, R-IL		✓			
2245	55311	Mr. Gilchrest, R-MD		✓			
117	52561	Mr. Akin, R-MO		✓			
1229	52371	Mr. Johnson, R-IL		✓			
1508	52565	Ms. Hart, R-PA		✓			
114	52211	Mr. Sullivan, R-OK		✓			
307	56365	Mr. Forbes, R-VA		✓			
1118	52931	Mr. Gingrey, R-GA		✓			
124	50453	Mr. Bishop, R-UT		✓			
1721	57772	Mr. Burgess, R-TX		✓			
315	54931	Mr. Bonner, R-AL		✓			
323	52706	Mr. Feeney, R-FL		✓			
1026	54005	Mr. Neugebauer, R-TX		✓			
2405	56673	Mr. Hall, D-TX	✓				
2304	54231	Mr. Gordon, D-TN	✓				
2454	55661	Mr. Costello, D-IL	✓				
1511	58885	Ms. Johnson, D-TX	✓				
2263	55161	Ms. Woolsey, D-CA	✓				
405	56565	Mr. Lampson, D-TX	✓				
1005	52265	Mr. Larson, D-CT	✓				
115	52161	Mr. Udall, D-CO	✓				
1023	50855	Mr. Wu, D-OR	✓				
1713	52631	Mr. Honda, D-CA	✓				
216	57508	Mr. Bell, D-TX	✓				
1505	53032	Mr. Miller, D-NC	✓				
504	56831	Mr. Davis, D-TN	✓				
2435	53816	Ms. Jackson-Lee, D-TX	✓				
102	53072	Ms. Lofgren, D-CA	✓				
1030	55911	Mr. Sherman, D-CA	✓				
1421	53536	Mr. Baird, D-WA	✓				
431	52865	Mr. Moore, D-KS	✓				
1122	56616	Mr. Weiner, D-NY	✓				
410	53011	Mr. Matheson, D-UT	✓				
503	56131	Mr. Cardoza, D-CA	✓				
		Vacancy					
TOTAL			9	13			

Attest: *William U. Garrison* (Clerk)

**AMENDMENT TO H.R. 1085**  
**OFFERED BY MS. JACKSON-LEE OF TEXAS**

(Page & line nos. refer to Committee Print of 7/2/03)

At the end of the bill, add the following new section:

1 **SEC. 4. MINORITY UNIVERSITY RESEARCH AND EDU-**  
2 **CATION.**

3 Title III of National Aeronautics and Space Act of  
4 1958 is amended by adding at the end the following new  
5 section:

6 **"SEC. 316. MINORITY UNIVERSITY RESEARCH AND EDU-**  
7 **CATION.**

8 "The employees, resources, and functions composing  
9 the Minority University Research and Education Pro-  
10 grams shall be reinstated into a Minority University Re-  
11 search and Education Division."



COMMITTEE ON SCIENCE - ROLL CALL - 108<sup>th</sup> CONGRESS

DATE: \_\_\_\_\_ SUBJECT: Amendment No. 12 by Ms. Jackson Lee

Rm.	Phone	Member	Yes	No	Not Voting	Present	Absent
2246	53665	Mr. Boehlert, R-NY		✓			
2231	54236	Mr. Lamar Smith, R-TX		✓			
2466	52011	Mr. Weldon, R-PA		✓			
2338	52415	Mr. Rohrabacher, R-CA		✓			
2109	52002	Mr. Barton, R-TX		✓			
2201	51986	Mr. Calvert, R-CA		✓			
2305	56276	Mr. Nick Smith, R-MI		✓			
2412	52721	Mr. Bartlett, R-MD		✓			
1714	53831	Mr. Ehlers, R-MI		✓			
425	52472	Mr. Gutknecht, R-MN		✓			
2443	52006	Mr. Nethercutt, R-WA		✓			
2342	55565	Mr. Lucas, R-OK		✓			
1213	53515	Mrs. Biggert, R-IL		✓			
2245	55311	Mr. Gilchrest, R-MD		✓			
117	52561	Mr. Akin, R-MO		✓			
1229	52371	Mr. Johnson, R-IL		✓			
1508	52565	Ms. Hart, R-PA		✓			
114	52211	Mr. Sullivan, R-OK		✓			
307	56365	Mr. Forbes, R-VA		✓			
1118	52931	Mr. Gingrey, R-GA		✓			
124	50453	Mr. Bishop, R-UT		✓			
1721	57772	Mr. Burgess, R-TX		✓			
315	54931	Mr. Bonner, R-AL		✓			
323	52706	Mr. Feeney, R-FL		✓			
1026	54005	Mr. Neugebauer, R-TX		✓			
2405	56673	Mr. Hall, D-TX	✓				
2304	54231	Mr. Gordon, D-TN	✓				
2454	55661	Mr. Costello, D-IL	✓				
1511	58885	Ms. Johnson, D-TX	✓				
2263	55161	Ms. Woolsey, D-CA	✓				
405	56565	Mr. Lampson, D-TX	✓				
1005	52265	Mr. Larson, D-CT	✓				
115	52161	Mr. Udall, D-CO	✓				
1023	50855	Mr. Wu, D-OR		✓			
1713	52631	Mr. Honda, D-CA		✓			
216	57508	Mr. Bell, D-TX	✓				
1505	53032	Mr. Miller, D-NC	✓				
504	56831	Mr. Davis, D-TN		✓			
2435	53816	Ms. Jackson-Lee, D-TX	✓				
102	53072	Ms. Lofgren, D-CA	✓				
1030	55911	Mr. Sherman, D-CA		✓			
1421	53536	Mr. Baird, D-WA		✓			
431	52865	Mr. Moore, D-KS	✓				
1122	56616	Mr. Weiner, D-NY		✓			
410	53011	Mr. Matheson, D-UT	✓				
503	56131	Mr. Cardoza, D-CA		✓			
		Vacancy					
TOTAL			12	18			

Attest:  (Clerk)

AMENDMENT TO H.R. 1085  
OFFERED BY MR. BOEHLERT

(Page and line numbers to refer to the Committee Print of July 2, 2003.)

Page 42, add at the end the following:

Sec. 4. Repeal.

The second sentence of section 9810(f)(1) of title 5, United States Code (as amended by section 3(a)) is repealed.

AMENDMENT TO H.R. 1085 OFFERED BY MR. HALL

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*Amendment*

H.L.C.

*Page 42, add the following:*

1. ~~§~~ CREW SAFETY.—Upon enactment of this Act, the  
 2 Administrator shall issue a request to the aerospace indus-  
 3 try and other interested persons for concepts to increase  
 4 Space Shuttle crew survivability for a crew of 6 or 7 astro-  
 5 nauts by at least a factor of 20 relative to the dem-  
 6 onstrated crew survival rate of the Space Shuttle to date.  
 7 Each concept provided in response to such request shall  
 8 include estimates of the cost and time required to imple-  
 9 ment it, as well as its effect on Space Shuttle performance.  
 10 The Administrator shall submit to the Committee on  
 11 Science of the House of Representatives and the Com-  
 12 mittee on Commerce, Science, and Transportation of the  
 13 Senate, within 270 days after the date of the enactment  
 14 of this Act—

- 15 (1) concepts received in response to the request
- 16 issued under the first sentence of this subsection;
- 17 and
- 18 (2) any concepts developed by the National Aer-
- 19 onautics and Space Administration to achieve the
- 20 same crew survivability improvement.

21 ~~(c) MORATORIUM ON VOLUNTARY SEPARATION INCEN-~~  
 22 ~~TIVE PAYMENTS.—No voluntary separation incentive~~  
 23 ~~payments as provided for in subchapter II of chapter 35~~  
 24 ~~of title 5, United States Code (including under section~~  
 25 ~~9810 of such title, as added by section 3(a)) shall be made~~

**COMMITTEE ON SCIENCE  
U.S. HOUSE OF REPRESENTATIVES  
WASHINGTON, DC 20515**

July 8, 2003

MEMORANDUM

TO: Chairman Boehlert

FROM: Dana Rohrabacher, Chairman  
Subcommittee on Space and Aeronautics

SUBJECT: Subcommittee Markup of H.R. 1085

I am pleased to report that on June 26, 2003, the Subcommittee on Space and Aeronautics favorably reported H.R. 1085 out of subcommittee with an amendment in the nature of a substitute. The Subcommittee passed both the amendment in the nature of a substitute that you offered and the legislation by voice vote.

Attached is a copy of the measure as reported by the subcommittee, as well as the section-by-section analysis.

I look forward to working with you to bring this legislation before the committee for consideration.

Attachments  
-Bill as Amended  
-Section-by-Section Analysis

Section-by-Section Analysis of the NASA Flexibility Act of 2003<sup>1</sup>

**Section 1. Short Title.**

“The NASA Flexibility Act of 2003.”

**Section 2. Compensation for Certain Excepted Personnel.**

Amends section 203(c) of the National Aeronautics and Space Act of 1958 to tie the pay scale for NASA Excepted (NEX) Employees to level III of the Executive Schedule rather than the obsolete pay scale of grade 18 of the General Schedule. Directs that this amendment takes effect on the first day of the first pay period beginning on or after the date of enactment of this Act.

**Section 3. Workforce Authorities.**

Amends title 5, United States Code, on Government Organizations and Employees by inserting a new chapter 98 for the National Aeronautics and Space Administration with the following sections:

- Sec. 9801. Definitions.
- Sec. 9802. Planning, notification, and reporting requirements.
- Sec. 9803. Restrictions.
- Sec. 9804. Recruitment, redesignation, and relocation bonuses.
- Sec. 9805. Retention bonuses.
- Sec. 9806. Term appointments.
- Sec. 9807. Pay authority for critical positions.
- Sec. 9808. Assignments of intergovernmental personnel.
- Sec. 9809. Enhanced demonstration project authority.
- Sec. 9810. Voluntary separation incentive payments.
- Sec. 9811. Science and technology scholarship program.
- Sec. 9812. Distinguished scholar appointment authority.
- Sec. 9813. Travel and transportation expenses of certain new appointees.
- Sec. 9814. Annual leave enhancements.
- Sec. 9815. Limited appointments to Senior Executive Service positions.
- Sec. 9816. Qualifications pay.
- Sec. 9817. Reporting requirement.

**Section 9801. Definitions.**

Defines the term “critical need” as a specific and important requirement of NASA’s mission that the agency is unable to fulfill because NASA lacks the appropriate employees either because of

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<sup>1</sup> As Approved by the Subcommittee on Space and Aeronautics on June 26, 2003

the inability to fill positions or because employees lack the requisite skills. Defines the term “redesignation bonus” as a bonus which could be paid to an employee moving from one government job to another, including within NASA, without relocating to a different geographic region.

**Section 9802. Planning, Notification, and Reporting Requirements.**

Requires the NASA Administrator to submit a Workforce Plan to Congress not later than 90 days before exercising any of the authorities under this chapter. The Workforce Plan shall be developed in consultation with the Office of Personnel Management. Requires that this Workforce Plan describe: (1) each of NASA’s critical needs and the criteria used in its identification; (2) the functions, approximate number, and classes or other categories of positions or employees that address critical needs and that would be eligible for each workforce authority provided in this chapter and proposed to be exercised, and how the exercise of those authorities with respect to the eligible positions or employees involved would address each critical need identified; (3) any critical need which would not be addressed by the workforce authorities provided in this chapter and 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 in sections 9804, 9805 (including the criteria for granting bonuses in the absence of a critical need), and 9810, 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 NASA employees will be afforded the notification required for the Workforce Plan or any modifications thereof; (7) the methods that will be used to determine if the workforce authorities provided in this chapter have successfully addressed each critical need identified; and (8) NASA’s recruitment methods and plans to improve recruitment of highly qualified individuals. Requires that NASA provide the Workforce Plan to all employees 60 days before exercising any of the workforce authorities provided in this chapter. Authorizes the NASA Administrator to modify the Workforce Plan, provided that not later than 90 days before implementing any such modifications the Administrator submit a description of proposed modifications to Congress and submit such description not later than 60 days beforehand to all employees. Requires the NASA Administrator to provide each employee representative representing any employee who might be affected with a copy of the proposed plan (or modification), to give each representative 30 calendar days to review and make recommendations to the proposed plan (or modification) to NASA, and for NASA to give such recommendations full and fair consideration in deciding how to proceed with the proposed plan. Requires that none of the workforce authorities provided in this chapter be exercised in a manner inconsistent with the Workforce Plan. Directs NASA to submit the annual performance plan that it submits to OMB under current law to the Congress. Requires the NASA Administrator to submit to Congress an evaluation and analysis of the actions taken under this chapter not later than six years after its enactment. Requires that this evaluation and analysis include: (1) an evaluation of whether the authorities exercised under this chapter successfully addressed each critical need identified; (2) to the extent that they did not, an explanation of the reasons why any critical need 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. Requires that NASA's annual budget request include a statement of the total amount of appropriations requested for the fiscal year to carry out this chapter.

**Section 9803. Restrictions.**

Prohibits Senate-confirmed Presidential appointees at NASA from being eligible to benefit from the authorities under this chapter. Requires that the total amount for all salaries, bonuses, and other benefits that an employee might receive under the workforce authorities provided in this chapter be limited according to current law.

**Section 9804. Recruitment, Resignation, and Relocation Bonuses.**

Authorizes the NASA Administrator to pay recruitment, redesignation, and relocation bonuses to an individual in accordance with the authority provided in this section and consistent with the Workforce Plan if the individual is: (1) newly appointed as an employee of the Federal Government; (2) currently employed by the Federal Government and is newly appointed to another position in the same geographic area; or (3) currently employed by the Federal Government and must relocate to a different geographic area to accept a position with the Administration.

Authorizes recruitment, redesignation, and relocation bonuses under the following formula: (1) If the position addresses a critical need, the amount of a bonus may not exceed 50 percent of an employee's annual salary (including comparability payments) multiplied by an agreed-upon service period; (2) If the position does not address a critical need, the amount of a bonus may not exceed 25 percent of an employee's annual salary (including comparability payments) multiplied by an agreed-upon service period; and (3) In either case, the total bonus may not exceed the employee's annual salary (including comparability payments) at the beginning of the employee's period of service.

Requires that payment of a bonus be contingent on the employee entering into a service agreement with NASA. Requires that the service agreement, at a minimum, establish: (1) the required service period; (2) the payment schedule and method of payment which may include a lump-sum payment, installment payments, or a combination thereof; (3) the amount of the bonus and the basis for calculating such amount; and (4) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed, and the effect of the termination. Requires that an employee's service period not be less than six months and not exceed four years. Requires NASA to establish a plan for paying such bonuses, subject to OPM approval, before paying a bonus under this section. Restricts supervisors and management officials from receiving more than 25 percent of the total amount in bonuses awarded in any year.

**Section 9805. Retention Bonuses.**

Authorizes the NASA Administrator to pay higher retention bonuses than is provided under current law and in accordance with the authority provided in this section and consistent with the Workforce Plan if the Administrator determines that the unusually high or unique qualifications of an employee or a special need of NASA makes it essential to retain the employee and the employee would be likely to leave in the absence of a retention bonus. Authorizes retention bonuses under the following formula: (1) If the position addresses a critical need, the amount of a bonus may not exceed 50 percent of an employee's annual salary (including comparability payments); or (2) If the position does not address a critical need, the amount of a bonus may not exceed 25 percent of an employee's annual salary (including comparability payments). Requires that payment of a bonus be contingent on the employee entering into a service agreement with NASA unless NASA pays a retention bonus in biweekly installments to the employee. Requires that the service agreement, at a minimum, establish: (1) the required service period; (2) the payment schedule and method of payment which may include a lump-sum payment, installment payments, or a combination thereof; (3) the amount of the bonus and the basis for calculating such amount; and (4) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed, and the effect of the termination. Requires that the service period may not be less than six months and may not exceed four years. Prohibits an employee from receiving a retention bonus under this section during a service period for which other bonuses were previously provided to the employee. Requires NASA to establish a plan for paying retention bonuses, subject to OPM approval, before paying a retention bonus under this section. Restricts supervisors and management officials from receiving more than 25 percent of the total amount in bonuses awarded in any year.

**Section 9806. Term Appointments.**

Authorizes the NASA Administrator to make term appointments within NASA for not less than one year and not more than six years. Authorizes the NASA Administrator to convert a term appointment to a permanent appointment in the competitive service within NASA without further competition if: (1) the individual was hired under the open, competitive examining procedures under current law; (2) the original announcement stated the appointment may be converted from term to career-conditional or career appointment; (3) the individual has completed at least two years of the term appointment; (4) the employee's performance was at least fully successful or equivalent; and (5) the position is in the same occupational series and geographic location and provides no greater promotion potential than the term appointment. Authorizes the NASA Administrator to convert a term appointment to a permanent appointment in the competitive service within NASA through internal competitive procedures if conditions (1) through (4) above are met. Directs that an employee converted under this section becomes a career-conditional employee unless the employee has otherwise completed the service requirements for career tenure. Directs that an employee converted to career or career-conditional employment under this section acquires competitive status upon conversion.



**Section 9807. Pay Authority for Critical Positions.**

Authorizes the NASA Administrator to fix the salary for up to 10 administrative, technical and professional positions described in the section to the salary level of the Vice-President if the position addresses a critical need identified in the Workforce Plan and the position requires expertise of an extremely high level in scientific, technical, professional, or administrative fields. Directs that the NASA Administrator may not delegate this authority. Requires that an employee receiving pay at a rate fixed under this section not be paid an allowance, differential, bonus, award, or similar cash payment during any calendar year that would cause the employee's salary total to exceed the annual rate of salary prescribed for the Vice-President.

**Section 9808. Assignments Under the Intergovernmental Personnel Act.**

Authorizes the NASA Administrator to extend the period of an employee's Intergovernmental Personnel Act (IPA) assignment up to four years, rather than two years provided under current law.

**Section 9809. Enhanced Demonstration Project.**

Authorizes NASA when conducting a demonstration project to apply that project to 8,000 individuals rather than 5,000 individuals as specified under current law.

**Section 9810. Voluntary Separation Incentives.**

Authorizes the NASA Administrator to pay Voluntary Separation Incentive (VSI) payments up to 50 percent of an employee's annual salary if the employee is in a position that fills a critical need. Requires that VSI payments under this section are limited to only 10 employees in any calendar year, unless OMB approves a greater number of employees and Congress is notified. Prohibits a NASA employee from receiving a VSI payment authorized under this section if the employee received certain other bonuses in the previous twelve months. Requires the proposed use of workforce authorities in this section be included in the agency's plans to OPM on the intended use VSI payments required under current law. Directs NASA to submit a copy of its plan on the use of incentive payments to Congress within 15 days after OPM's approval of the plan.

**Section 9811. Science and Technology Scholarship Program.**

Authorizes the NASA Administrator to establish a NASA Science and Technology Scholarship Program to award scholarships to individuals who agree to serve as full-time NASA employees in exchange for receiving this scholarship. Requires that individuals be selected for this scholarship through a competitive application process primarily on the basis of academic merit, with consideration given to financial need and the goal of promoting the participation of individuals under the Science and Engineering Equal Opportunities Act. Requires that individuals eligible for this scholarship must be full-time students, U.S. citizens, and not be

federal employees. Directs NASA to advertise and update periodically a list of academic programs and fields of study for which scholarships may be used. Prohibits an individual from receiving this scholarship for more than four academic years, unless the NASA Administrator grants a waiver. Requires that the scholarship pay for tuition, fees, and other authorized expenses established by the NASA Administrator by regulation. Directs that scholarships not exceed the cost of attendance. Authorizes the NASA Administrator to enter into contractual agreement with an institution of higher education to provide payment for this scholarship. Requires two years of service for each year of scholarship. Requires that obligated service begin not later than 60 days after the individual receives the educational degree for which the scholarship was provided unless the NASA Administrator allows the individual to defer the obligated service under prescribed terms and conditions. Requires that students who fail to maintain a high level of academic standing as defined in NASA regulation, who are dismissed from their college or university for disciplinary reasons, or who do not complete their program of study be required to repay NASA for funds received under the scholarship program. Directs that in the event a scholarship recipient fails to complete the service obligation to NASA, the individual be responsible to repay three times the amount of scholarship received plus interest on that amount at a determined, prevailing loan-rate. Authorizes the NASA Administrator to waive a service obligation for an individual who received a scholarship when completion of service would be impossible or would involve extreme hardship to the individual or if enforcement would be contrary to the best interests of the government. Authorizes appropriation of \$10,000,000 for each fiscal year for the NASA Science and Technology Scholarship Program established under this section.

**Section 9812. Distinguished Scholar Appointment Authority.**

Authorizes NASA to appoint candidates directly to General Schedule professional, competitive service positions in grades GS-7 through GS-12 who meet specified education and grade point average requirements and for which public notice for the position has been given in accordance with OPM regulations. Requires that the candidates receive their degree within two years before the effective date of the appointment. Requires that in selecting these individuals for this appointment, NASA shall consider preference eligibles who meet the criteria for distinguished scholar appointment ahead of non-preference eligibles. Directs that an appointment made under this authority shall be a career-conditional appointment in the competitive civil service.

**Section 9813. Travel and Transportation Expenses of Certain New Appointees.**

Authorizes the NASA Administrator to pay the travel, transportation, and relocation expenses for a new appointee to NASA to the same extent, in the same manner, and subject to the same conditions as payment of such expenses to an employee transferred in the interests of the United States Government.

**Section 9814. Annual Leave Enhancements.**

Authorizes the NASA Administrator to 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 a NASA employee for the purposes of establishing leave accrual at the rate equal to the rate for a Federal employee of similar level and experience. Requires that this authority only continues to apply as long as the individual serves in or under NASA. Authorizes the annual leave accrual rate for NASA employees serving in senior level or senior executive pay positions or in an equivalent category whose rate of basic pay is greater than GS-15, step 10 to be 1 day for each full biweekly period as long as the employee serves in or under NASA.

**Section 9815. Limited Appointments to Senior Executive Service Positions.**

Authorizes the NASA Administrator to fill career reserved SES positions on a temporary basis when a vacancy in such a position occurs as a result of separation of the incumbent, temporary absence of the incumbent due to illness, training, or reassignment, or if such a position would be difficult to fill in any other manner because the position is likely to be eliminated within the next two years. Restricts such appointments from exceeding two years, but allows the Administrator to extend such an appointment up to an additional year provided the reason for the original appointment was not that the position was likely to be eliminated within two years. Restricts the number of such appointments from exceeding 10 percent of the total number of SES positions within NASA at any time. Authorizes an individual appointed to such a career reserved position on a temporary basis to be reemployed to the position (or an equivalent position) from which the individual was so appointed in accordance with OPM regulations. Requires OPM approval if the individual appointed to such a career reserved position under this section is to be appointed (1) from outside the Federal Government; or (2) from a civil service position that is not a career or career-conditional appointment; or (3) or is a senior executive, but not a career appointee. Authorizes an individual appointed under this authority to be treated as a career appointee for purposes of performance awards.

**Section 9816. Qualifications Pay.**

Authorizes the NASA Administrator to determine the pay for a General Schedule (GS) employee at any step within the pay range under the General Schedule if the employee possesses unusually high or unique qualifications and the employee is assigned new duties or to a new position. Authorizes that if an employee serves at least one year in the position under the GS step determined by the authority under this section, then succeeding actions to set pay under current law for the employee may take the pay determination under this section into account. Requires the NASA Administrator to submit a plan to OPM and the Congress that describes the implementation and process for evaluating the effectiveness of this authority before exercising this authority.

**Section 9817. Reporting Requirement.**

Requires the NASA Administrator to submit annual reports to the Congress not later than February 28 for each of the next 10 years after enactment of this chapter to provide specific information listed in this section about the use of the workforce authorities provided in this

chapter for the preceding fiscal year.

**Section 3. Clerical Amendment.**

Amends the table of chapters in title 5, United States Code by adding chapter 98 for NASA.

**COMMITTEE PRINT**

JULY 2, 2003

**Showing the Text of H. R. 1085**

**As Approved by the Subcommittee on Space and Aeronautics**

**On June 26, 2003**

108TH CONGRESS  
1ST SESSION

**H. R. 1085**

To make certain workforce authorities available to the National Aeronautics and Space Administration, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

MARCH 5, 2003

Mr. BOEHLERT introduced the following bill; which was referred to the Committee on Science, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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**A BILL**

To make certain workforce authorities available to the National Aeronautics and Space Administration, and for other purposes.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “NASA Flexibility Act  
3 of 2003”.

4 **SEC. 2. COMPENSATION FOR CERTAIN EXCEPTED PER-**  
5 **SONNEL.**

6 (a) **IN GENERAL.**—Subparagraph (A) of section  
7 203(c)(2) of the National Aeronautics and Space Act of  
8 1958 (42 U.S.C. 2473(c)(2)(A)) is amended by striking  
9 “the highest rate of grade 18 of the General Schedule of  
10 the Classification Act of 1949, as amended,” and inserting  
11 “the rate of basic pay payable for level III of the Executive  
12 Schedule.”.

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

17 **SEC. 3. WORKFORCE AUTHORITIES.**

18 (a) **IN GENERAL.**—Subpart I of part III of title 5,  
19 United States Code, is amended by inserting after chapter  
20 97, as added by section 841(a)(2) of the Homeland Secu-  
21 rity Act of 2002 (Public Law 107–296; 116 Stat. 2229),  
22 the following:

23 **“CHAPTER 98—NATIONAL AERONAUTICS**  
24 **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. Enhanced demonstration project authority.
- “9810. Voluntary separation incentive payments.
- “9811. Science and technology scholarship program.
- “9812. Distinguished scholar appointment authority.
- “9813. Travel and transportation expenses of certain new appointees.
- “9814. Annual leave enhancements.
- “9815. Limited appointments to Senior Executive Service positions.
- “9816. Qualifications pay.
- “9817. Reporting requirement.

1 **“§ 9801. Definitions**

2 “For purposes of this chapter—

3 “(1) the term ‘Administration’ means the Na-  
4 tional Aeronautics and Space Administration;

5 “(2) the term ‘Administrator’ means the Ad-  
6 ministrator of the National Aeronautics and Space  
7 Administration;

8 “(3) the term ‘critical need’ means a specific  
9 and important requirement of the Administration’s  
10 mission that the Administration is unable to fulfill  
11 because the Administration lacks the appropriate  
12 employees because—

13 “(A) of the inability to fill positions; or

14 “(B) employees do not possess the req-  
15 uisite skills;

16 “(4) the term ‘employee’ means an individual  
17 employed in or under the Administration;

1           “(5) the term ‘workforce plan’ means the plan  
2 required under section 9802(a);

3           “(6) the term ‘appropriate committees of Con-  
4 gress’ means—

5                   “(A) the Committees on Government Re-  
6 form, Science, and Appropriations of the House  
7 of Representatives; and

8                   “(B) the Committees on Governmental Af-  
9 fairs, Commerce, Science, and Transportation,  
10 and Appropriations of the Senate;

11           “(7) the term ‘redesignation bonus’ means a  
12 bonus under section 9804 paid to an individual de-  
13 scribed in subsection (a)(2) thereof;

14           “(8) the term ‘supervisor’ has the meaning  
15 given such term by section 7103(a)(10); and

16           “(9) the term ‘management official’ has the  
17 meaning given such term by section 7103(a)(11).

18 **“§ 9802. Planning, notification, and reporting require-**  
19 **ments**

20           “(a) Not later than 90 days before exercising any of  
21 the workforce authorities made available under this chap-  
22 ter, the Administrator shall submit a written plan to the  
23 appropriate committees of Congress. Such plan shall be  
24 developed in consultation with the Office of Personnel  
25 Management.



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

2               “(1) each critical need of the Administration  
3       and the criteria used in the identification of that  
4       need;

5               “(2)(A) the functions, approximate number,  
6       and classes or other categories of positions or em-  
7       ployees that—

8                       “(i) address critical needs; and

9                       “(ii) would be eligible for each authority  
10       proposed to be exercised under section 9803;  
11       and

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

16               “(3)(A) any critical need identified under para-  
17       graph (1) which would not be addressed by the au-  
18       thorities made available under this chapter; and

19               “(B) the reasons why those needs would not be  
20       so addressed;

21               “(4) the specific criteria to be used in deter-  
22       mining which individuals may receive the benefits  
23       described under sections 9804, 9805 (including the  
24       criteria for granting bonuses in the absence of a

1 critical need), and 9810, and how the level of those  
2 benefits will be determined;

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

6 “(6) the means by which employees will be af-  
7 farded the notification required under subsections  
8 (c) and (d)(1)(B);

9 “(7) the methods that will be used to determine  
10 if the authorities exercised under this chapter have  
11 successfully addressed each critical need identified  
12 under paragraph (1); and

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

16 “(B) the changes the Administration will imple-  
17 ment after the enactment of this chapter in order to  
18 improve its recruitment of highly qualified individ-  
19 uals, including how it intends to use—

20 “(i) nongovernmental recruitment or place-  
21 ment agencies; and

22 “(ii) Internet technologies.

23 “(c) Not later than 60 days before first exercising  
24 any of the workforce authorities made available under this  
25 chapter, the Administrator shall provide to all employees

1 the workforce plan and any additional information which  
2 the Administrator considers appropriate.

3 “(d)(1)(A) The Administrator may from time to time  
4 modify the workforce plan. Not later than 90 days before  
5 implementing any such modifications, the Administrator  
6 shall submit a description of the proposed modifications  
7 to the appropriate committees of Congress.

8 “(B) Not later than 60 days before implementing any  
9 such modifications, the Administrator shall provide an ap-  
10 propriately modified plan to all employees of the Adminis-  
11 tration and to the appropriate committees of Congress.

12 “(2) Any reference in this chapter or any other provi-  
13 sion of law to the workforce plan shall be considered to  
14 include any modification made in accordance with this  
15 subsection.

16 “(e) Before submitting any written plan under sub-  
17 section (a) (or modification under subsection (d)) to the  
18 appropriate committees of Congress, the Administrator  
19 shall—

20 “(1) provide to each employee representative  
21 representing any employees who might be affected  
22 by such plan (or modification) a copy of the pro-  
23 posed plan (or modification);

24 “(2) give each representative 30 calendar days  
25 (unless extraordinary circumstances require earlier

1       action) to review and make recommendations with  
2       respect to the proposed plan (or modification); and

3               “(3) give any recommendations received from  
4       any such representatives under paragraph (2) full  
5       and fair consideration in deciding whether or how to  
6       proceed with respect to the proposed plan (or modi-  
7       fication).

8       “(f) None of the workforce authorities made available  
9       under this chapter may be exercised in a manner incon-  
10      sistent with the workforce plan.

11      “(g) Whenever the Administration submits its per-  
12      formance plan under section 1115 of title 31 to the Office  
13      of Management and Budget for any year, the Administra-  
14      tion shall at the same time submit a copy of such plan  
15      to the appropriate committees of Congress.

16      “(h) Not later than 6 years after the date of enact-  
17      ment of this chapter, the Administrator shall submit to  
18      the appropriate committees of Congress an evaluation and  
19      analysis of the actions taken by the Administration under  
20      this chapter, including—

21               “(1) an evaluation, using the methods described  
22      in subsection (b)(7), of whether the authorities exer-  
23      cised under this chapter successfully addressed each  
24      critical need identified under subsection (b)(1);

1           “(2) to the extent that they did not, an expla-  
2           nation of the reasons why any critical need (apart  
3           from the ones under subsection (b)(3)) was not suc-  
4           cessfully addressed; and

5           “(3) recommendations for how the Administra-  
6           tion could address any remaining critical need and  
7           could prevent those that have been addressed from  
8           recurring.

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

14       **“§ 9803. Restrictions**

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

19          “(b) Unless specifically stated otherwise, all work-  
20          force authorities made available under this chapter shall  
21          be subject to section 5307.

22       **“§ 9804. Recruitment, redesignation, and relocation**  
23                               **bonuses**

24          “(a) Notwithstanding section 5753, the Adminis-  
25          trator may pay a bonus to an individual, in accordance

1 with the workforce plan and subject to the limitations in  
2 this section, if—

3           “(1) the Administrator determines that the Ad-  
4 ministration would be likely, in the absence of a  
5 bonus, to encounter difficulty in filling a position;  
6 and

7           “(2) the individual—

8               “(A) is newly appointed as an employee of  
9 the Federal Government;

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

13              “(C) is currently employed by the Federal  
14 Government and is required to relocate to a dif-  
15 ferent geographic area to accept a position with  
16 the Administration.

17           “(b) If the position is described as addressing a crit-  
18 ical need in the workforce plan under section  
19 9802(b)(2)(A), the amount of a bonus may not exceed—

20              “(1) 50 percent of the employee’s annual rate  
21 of basic pay (including comparability payments  
22 under sections 5304 and 5304a) as of the beginning  
23 of the service period multiplied by the service period  
24 specified under subsection (d)(1)(B)(i); or

1           “(2) 100 percent of the employee’s annual rate  
2           of basic pay (including comparability payments  
3           under sections 5304 and 5304a) as of the beginning  
4           of the service period.

5           “(c) If the position is not described as addressing a  
6           critical need in the workforce plan under section  
7           9802(b)(2)(A), the amount of a bonus may not exceed—

8           “(1) 25 percent of the employee’s annual rate  
9           of basic pay (including comparability payments  
10           under sections 5304 and 5304a) as of the beginning  
11           of the service period multiplied by the service period  
12           specified under subsection (d)(1)(B)(i); or

13           “(2) 100 percent of the employee’s annual rate  
14           of basic pay (including comparability payments  
15           under sections 5304 and 5304a) as of the beginning  
16           of the service period.

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

20           “(B) At a minimum, the service agreement shall  
21           include—

22           “(i) the required service period;

23           “(ii) the method of payment, including a pay-  
24           ment schedule, which may include a lump-sum pay-

1 ment, installment payments, or a combination there-  
2 of;

3 “(iii) the amount of the bonus and the basis for  
4 calculating that amount; and

5 “(iv) the conditions under which the agreement  
6 may be terminated before the agreed-upon service  
7 period has been completed, and the effect of the ter-  
8 mination.

9 “(2) For purposes of determinations under sub-  
10 sections (b)(1) and (c)(1), the employee’s service period  
11 shall be expressed as the number equal to the full years  
12 and twelfth parts thereof, rounding the fractional part of  
13 a month to the nearest twelfth part of a year. The service  
14 period may not be less than 6 months and may not exceed  
15 4 years.

16 “(3) A bonus under this section may not be consid-  
17 ered to be part of the basic pay of an employee.

18 “(e) Before paying a bonus under this section, the  
19 Administration shall establish a plan for paying recruit-  
20 ment, redesignation, and relocation bonuses, subject to ap-  
21 proval by the Office of Personnel Management.

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



1 **“§ 9805. Retention bonuses**

2 “(a) Notwithstanding section 5754, the Adminis-  
3 trator may pay a bonus to an employee, in accordance with  
4 the workforce plan and subject to the limitations in this  
5 section, if the Administrator determines that—

6 “(1) the unusually high or unique qualifications  
7 of the employee or a special need of the Administra-  
8 tion for the employee’s services makes it essential to  
9 retain the employee; and

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

12 “(b) If the position is described as addressing a crit-  
13 ical need in the workforce plan under section  
14 9802(b)(2)(A), the amount of a bonus may not exceed 50  
15 percent of the employee’s annual rate of basic pay (includ-  
16 ing comparability payments under sections 5304 and  
17 5304a).

18 “(c) If the position is not described as addressing a  
19 critical need in the workforce plan under section  
20 9802(b)(2)(A), the amount of a bonus may not exceed 25  
21 percent of the employee’s annual rate of basic pay (includ-  
22 ing comparability payments under sections 5304 and  
23 5304a).

24 “(d)(1)(A) Payment of a bonus under this section  
25 shall be contingent upon the employee entering into a serv-  
26 ice agreement with the Administration.

1       “(B) At a minimum, the service agreement shall  
2 include—

3               “(i) the required service period;

4               “(ii) the method of payment, including a pay-  
5 ment schedule, which may include a lump-sum pay-  
6 ment, installment payments, or a combination there-  
7 of;

8               “(iii) the amount of the bonus and the basis for  
9 calculating the amount; and

10              “(iv) the conditions under which the agreement  
11 may be terminated before the agreed-upon service  
12 period has been completed, and the effect of the ter-  
13 mination.

14       “(2) The employee’s service period shall be expressed  
15 as the number equal to the full years and twelfth parts  
16 thereof, rounding the fractional part of a month to the  
17 nearest twelfth part of a year. The service period may not  
18 be less than 6 months and may not exceed 4 years.

19       “(3) Notwithstanding paragraph (1), a service agree-  
20 ment is not required if the Administration pays a bonus  
21 in biweekly installments and sets the installment payment  
22 at the full bonus percentage rate established for the em-  
23 ployee, with no portion of the bonus deferred. In this case,  
24 the Administration shall inform the employee in writing  
25 of any decision to change the retention bonus payments.

1 The employee shall continue to accrue entitlement to the  
2 retention bonus through the end of the pay period in which  
3 such written notice is provided.

4 “(e) A bonus under this section may not be consid-  
5 ered to be part of the basic pay of an employee.

6 “(f) An employee is not entitled to a retention bonus  
7 under this section during a service period previously estab-  
8 lished for that employee under section 5753 or under sec-  
9 tion 9804.

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

13 **“§ 9806. Term appointments**

14 “(a) The Administrator may authorize term appoint-  
15 ments within the Administration under subchapter I of  
16 chapter 33, for a period of not less than 1 year and not  
17 more than 6 years.

18 “(b) Notwithstanding chapter 33 or any other provi-  
19 sion of law relating to the examination, certification, and  
20 appointment of individuals in the competitive service, the  
21 Administrator may convert an employee serving under a  
22 term appointment to a permanent appointment in the  
23 competitive service within the Administration without fur-  
24 ther competition if—

1           “(1) such individual was appointed under open,  
2 competitive examination under subchapter I of chap-  
3 ter 33 to the term position;

4           “(2) the announcement for the term appoint-  
5 ment from which the conversion is made stated that  
6 there was potential for subsequent conversion to a  
7 career-conditional or career appointment;

8           “(3) the employee has completed at least 2  
9 years of current continuous service under a term ap-  
10 pointment in the competitive service;

11           “(4) the employee’s performance under such  
12 term appointment was at least fully successful or  
13 equivalent; and

14           “(5) the position to which such employee is  
15 being converted under this section is in the same oc-  
16 cupational series, is in the same geographic location,  
17 and provides no greater promotion potential than  
18 the term position for which the competitive examina-  
19 tion was conducted.

20           “(c) Notwithstanding chapter 33 or any other provi-  
21 sion of law relating to the examination, certification, and  
22 appointment of individuals in the competitive service, the  
23 Administrator may convert an employee serving under a  
24 term appointment to a permanent appointment in the  
25 competitive service within the Administration through in-

1 ternal competitive promotion procedures if the conditions  
2 under paragraphs (1) through (4) of subsection (b) are  
3 met.

4 “(d) An employee converted under this section be-  
5 comes a career-conditional employee, unless the employee  
6 has otherwise completed the service requirements for ca-  
7 reer tenure.

8 “(e) An employee converted to career or career-condi-  
9 tional employment under this section acquires competitive  
10 status upon conversion.

11 **“§ 9807. Pay authority for critical positions**

12 “(a) In this section, the term ‘position’ means—

13 “(1) a position to which chapter 51 applies, in-  
14 cluding a position in the Senior Executive Service;

15 “(2) a position under the Executive Schedule  
16 under sections 5312 through 5317;

17 “(3) a position established under section 3104;  
18 or

19 “(4) a senior-level position to which section  
20 5376(a)(1) applies.

21 “(b) Authority under this section—

22 “(1) may be exercised only with respect to a po-  
23 sition that—

1           “(A) is described as addressing a critical  
2           need in the workforce plan under section  
3           9802(b)(2)(A); and

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

7           “(2) may be exercised only to the extent nec-  
8           essary to recruit or retain an individual exceptionally  
9           well qualified for the position; and

10          “(3) may be exercised only in retaining employ-  
11          ees of the Administration or in appointing individ-  
12          uals who were not employees of another Federal  
13          agency as defined under section 5102(a)(1).

14          “(c)(1) Notwithstanding section 5377, the Adminis-  
15          trator may fix the rate of basic pay for a position in the  
16          Administration in accordance with this section. The Ad-  
17          ministrators may not delegate this authority.

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

20          “(d)(1) The rate of basic pay fixed under this section  
21          may not be less than the rate of basic pay (including any  
22          comparability payments) which would otherwise be pay-  
23          able for the position involved if this section had never been  
24          enacted.

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

4       “(3) Notwithstanding any provision of section 5307,  
5 in the case of an employee who, during any calendar year,  
6 is receiving pay at a rate fixed under this section, no allow-  
7 ance, differential, bonus, award, or similar cash payment  
8 may be paid to such employee if, or to the extent that,  
9 when added to basic pay paid or payable to such employee  
10 (for service performed in such calendar year as an em-  
11 ployee in the executive branch or as an employee outside  
12 the executive branch to whom chapter 51 applies), such  
13 payment would cause the total to exceed the per annum  
14 rate of salary which, as of the end of such calendar year,  
15 is payable under section 104 of title 3.

16 **“§ 9808. Assignments of intergovernmental personnel**

17       “For purposes of applying the third sentence of sec-  
18 tion 3372(a) (relating to the authority of the head of a  
19 Federal agency to extend the period of an employee’s as-  
20 signment to or from a State or local government, institu-  
21 tion of higher education, or other organization), the Ad-  
22 ministrators may, with the concurrence of the employee and  
23 the government or organization concerned, take any action  
24 which would be allowable if such sentence had been  
25 amended by striking ‘two’ and inserting ‘four’.

1 **“§ 9809. Enhanced demonstration project authority**

2 “When conducting a demonstration project at the Ad-  
3 ministration, section 4703(d)(1)(A) may be applied by  
4 substituting ‘8,000’ for ‘5,000’.

5 **“§ 9810. Voluntary separation incentive payments**

6 “(a) In applying subchapter II of chapter 35, the Ad-  
7 ministrator may provide for voluntary separation incentive  
8 payments in excess of the dollar-amount limitation that  
9 would otherwise apply under section 3523(b)(3)(B), sub-  
10 ject to subsection (b).

11 “(b) Voluntary separation incentive payments de-  
12 scribed in subsection (a)—

13 “(1) may not exceed 50 percent of the annual  
14 rate of basic pay of the employee receiving such pay-  
15 ments (computed disregarding any comparability  
16 payments under sections 5304–5304a);

17 “(2) may not, in any calendar year, be made to  
18 more than—

19 “(A) 10 employees; or

20 “(B) such greater number of employees as  
21 the Administrator may, with the approval of the  
22 Office of Management and Budget, establish in  
23 lieu of the number specified in subparagraph  
24 (A) following notification to the appropriate  
25 committees of Congress; and



1           “(3) may not be made to an employee if the  
2           employee has within the last 12 months received, or  
3           if the employee is then receiving, a bonus or allow-  
4           ance under section 5753 or 5754 or under section  
5           9804 or 9805.

6           “(c)(1) The proposed use of any workforce authori-  
7           ties provided under this section shall be included in the  
8           plan required by section 3522.

9           “(2) Whenever the Office of Personnel Management  
10          approves the Administration’s plan required in such sec-  
11          tion 3522, the Administration shall submit a copy of the  
12          approved plan to the appropriate committees of Congress  
13          within 15 days after the date on which it is so approved.

14          **“§9811. Science and technology scholarship program**

15          “(a)(1) The Administrator shall establish a National  
16          Aeronautics and Space Administration Science and Tech-  
17          nology Scholarship Program to award scholarships to indi-  
18          viduals that is designed to recruit and prepare students  
19          for careers in the Administration.

20          “(2) Individuals shall be selected to receive scholar-  
21          ships under this section through a competitive process pri-  
22          marily on the basis of academic merit, with consideration  
23          given to financial need and the goal of promoting the par-  
24          ticipation of individuals identified in section 33 or 34 of  
25          the Science and Engineering Equal Opportunities Act.

1       “(3) To carry out the Program the Administrator  
2 shall enter into contractual agreements with individuals  
3 selected under paragraph (2) under which the individuals  
4 agree to serve as full-time employees of the Administra-  
5 tion, for the period described in subsection (f)(1), in posi-  
6 tions needed by the Administration and for which the indi-  
7 viduals are qualified, in exchange for receiving a scholar-  
8 ship.

9       “(b) In order to be eligible to participate in the Pro-  
10 gram, an individual must—

11           “(1) be enrolled or accepted for enrollment as  
12 a full-time student at an institution of higher edu-  
13 cation in an academic field or discipline described in  
14 the list made available under subsection (d);

15           “(2) be a United States citizen; and

16           “(3) at the time of the initial scholarship  
17 award, not be an employee (as defined in section  
18 2105).

19       “(c) An individual seeking a scholarship under this  
20 section shall submit an application to the Administrator  
21 at such time, in such manner, and containing such infor-  
22 mation, agreements, or assurances as the Administrator  
23 may require.

24       “(d) The Administrator shall make publicly available  
25 a list of academic programs and fields of study for which

1 scholarships under the Program may be utilized and shall  
2 update the list as necessary.

3       “(e)(1) The Administrator may provide a scholarship  
4 under the Program for an academic year if the individual  
5 applying for the scholarship has submitted to the Adminis-  
6 trator, as part of the application required under sub-  
7 section (e), a proposed academic program leading to a de-  
8 gree in a program or field of study on the list made avail-  
9 able under subsection (d).

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

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

17       “(4) A scholarship provided under this section may  
18 be expended for tuition, fees, and other authorized ex-  
19 penses as established by the Administrator by regulation.

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

1       “(f)(1) The period of service for which an individual  
2 shall be obligated to serve as an employee of the Adminis-  
3 tration is, except as provided in subsection (h)(2), 24  
4 months for each academic year for which a scholarship  
5 under this section is provided.

6       “(2)(A) Except as provided in subparagraph (B), ob-  
7 ligated service under paragraph (1) shall begin not later  
8 than 60 days after the individual obtains the educational  
9 degree for which the scholarship was provided.

10       “(B) The Administrator may defer the obligation of  
11 an individual to provide a period of service under para-  
12 graph (1) if the Administrator determines that such a de-  
13 ferral is appropriate. The Administrator shall prescribe  
14 the terms and conditions under which a service obligation  
15 may be deferred through regulation.

16       “(g)(1) Scholarship recipients who fail to maintain  
17 a high level of academic standing, as defined by the Ad-  
18 ministrator by regulation, who are dismissed from their  
19 educational institutions for disciplinary reasons, or who  
20 voluntarily terminate academic training before graduation  
21 from the educational program for which the scholarship  
22 was awarded, shall be in breach of their contractual agree-  
23 ment and, in lieu of any service obligation arising under  
24 such agreement, shall be liable to the United States for  
25 repayment within 1 year after the date of default of all

1 scholarship funds paid to them and to the institution of  
2 higher education on their behalf under the agreement, ex-  
3 cept as provided in subsection (h)(2). The repayment pe-  
4 riod may be extended by the Administrator when deter-  
5 mined to be necessary, as established by regulation.

6 “(2) Scholarship recipients who, for any reason, fail  
7 to begin or complete their service obligation after comple-  
8 tion of academic training, or fail to comply with the terms  
9 and conditions of deferment established by the Adminis-  
10 trator pursuant to subsection (f)(2)(B), shall be in breach  
11 of their contractual agreement. When recipients breach  
12 their agreements for the reasons stated in the preceding  
13 sentence, the recipient shall be liable to the United States  
14 for an amount equal to—

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

17 “(B) the interest on the amounts of such  
18 awards which would be payable if at the time the  
19 awards were received they were loans bearing inter-  
20 est at the maximum legal prevailing rate, as deter-  
21 mined by the Treasurer of the United States,  
22 multiplied by 3.

23 “(h)(1) Any obligation of an individual incurred  
24 under the Program (or a contractual agreement there-

1 under) for service or payment shall be canceled upon the  
2 death of the individual.

3       “(2) The Administrator shall by regulation provide  
4 for the partial or total waiver or suspension of any obliga-  
5 tion of service or payment incurred by an individual under  
6 the Program (or a contractual agreement thereunder)  
7 whenever compliance by the individual is impossible or  
8 would involve extreme hardship to the individual, or if en-  
9 forcement of such obligation with respect to the individual  
10 would be contrary to the best interests of the Government.

11       “(i) For purposes of this section—

12               “(1) the term ‘cost of attendance’ has the  
13 meaning given that term in section 472 of the High-  
14 er Education Act of 1965;

15               “(2) the term ‘institution of higher education’  
16 has the meaning given that term in section 101(a)  
17 of the Higher Education Act of 1965; and

18               “(3) the term ‘Program’ means the National  
19 Aeronautics and Space Administration Science and  
20 Technology Scholarship Program established under  
21 this section.

22       “(j)(1) There is authorized to be appropriated to the  
23 Administration for the Program \$10,000,000 for each fis-  
24 cal year.

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

3 **“§ 9812. Distinguished scholar appointment authority**

4       “(a) In this section—

5               “(1) the term ‘professional position’ means a  
6 position that is classified to an occupational series  
7 identified by the Office of Personnel Management as  
8 a position that—

9                       “(A) requires education and training in the  
10 principles, concepts, and theories of the occupa-  
11 tion that typically can be gained only through  
12 completion of a specified curriculum at a recog-  
13 nized college or university; and

14                       “(B) is covered by the Group Coverage  
15 Qualification Standard for Professional and Sci-  
16 entific Positions; and

17               “(2) the term ‘research position’ means a posi-  
18 tion in a professional series that primarily involves  
19 scientific inquiry or investigation, or research-type  
20 exploratory development of a creative or scientific  
21 nature, where the knowledge required to perform the  
22 work successfully is acquired typically and primarily  
23 through graduate study.

24       “(b) The Administration may appoint, without regard  
25 to the provisions of section 3304(b) and sections 3309

1 through 3318, but subject to subsection (c), candidates  
2 directly to General Schedule professional, competitive  
3 service positions in the Administration for which public  
4 notice has been given (in accordance with regulations of  
5 the Office of Personnel Management), if—

6           “(1) with respect to a position at the GS-7  
7 level, the individual—

8                   “(A) received, within 2 years before the ef-  
9 fective date of the appointment, from an ac-  
10 credited institution authorized to grant baccala-  
11 laureate degrees, a baccalaureate degree in a  
12 field of study for which possession of that de-  
13 gree in conjunction with academic achievements  
14 meets the qualification standards as prescribed  
15 by the Office of Personnel Management for the  
16 position to which the individual is being ap-  
17 pointed; and

18                   “(B) achieved a cumulative grade point av-  
19 erage of 3.0 or higher on a 4.0 scale and a  
20 grade point average of 3.5 or higher for courses  
21 in the field of study required to qualify for the  
22 position;

23           “(2) with respect to a position at the GS-9  
24 level, the individual—



1           “(A) received, within 2 years before the ef-  
2           fective date of the appointment, from an ac-  
3           credited institution authorized to grant grad-  
4           uate degrees, a graduate degree in a field of  
5           study for which possession of that degree meets  
6           the qualification standards at this grade level as  
7           prescribed by the Office of Personnel Manage-  
8           ment for the position to which the individual is  
9           being appointed; and

10           “(B) achieved a cumulative grade point av-  
11           erage of 3.5 or higher on a 4.0 scale in grad-  
12           uate coursework in the field of study required  
13           for the position;

14           “(3) with respect to a position at the GS-11  
15           level, the individual—

16           “(A) received, within 2 years before the ef-  
17           fective date of the appointment, from an ac-  
18           credited institution authorized to grant grad-  
19           uate degrees, a graduate degree in a field of  
20           study for which possession of that degree meets  
21           the qualification standards at this grade level as  
22           prescribed by the Office of Personnel Manage-  
23           ment for the position to which the individual is  
24           being appointed; and

1           “(B) achieved a cumulative grade point av-  
2           erage of 3.5 or higher on a 4.0 scale in grad-  
3           uate coursework in the field of study required  
4           for the position; or

5           “(4) with respect to a research position at the  
6           GS-12 level, the individual—

7           “(A) received, within 2 years before the ef-  
8           fective date of the appointment, from an ac-  
9           credited institution authorized to grant grad-  
10          uate degrees, a graduate degree in a field of  
11          study for which possession of that degree meets  
12          the qualification standards at this grade level as  
13          prescribed by the Office of Personnel Manage-  
14          ment for the position to which the individual is  
15          being appointed; and

16          “(B) achieved a cumulative grade point av-  
17          erage of 3.5 or higher on a 4.0 scale in grad-  
18          uate coursework in the field of study required  
19          for the position.

20          “(c) In making any selections under this section,  
21          preference eligibles who meet the criteria for distinguished  
22          scholar appointments shall be considered ahead of non-  
23          preference eligibles.



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

5           “(b) The Administrator may pay the travel, transpor-  
6           tation, and relocation expenses of a new appointee to the  
7           same extent, in the same manner, and subject to the same  
8           conditions as the payment of such expenses under sections  
9           5724, 5724a, 5724b, and 5724c to an employee trans-  
10          ferred in the interests of the United States Government.

11   **“§ 9814. Annual leave enhancements**

12          “(a)(1) In this subsection—

13               “(A) the term ‘newly appointed employee’  
14               means an individual who is first appointed—

15                       “(i) as an employee of the Federal Govern-  
16                       ment; or

17                       “(ii) as an employee of the Federal Gov-  
18                       ernment following a break in service of at least  
19                       90 days after that individual’s last period of  
20                       Federal employment, other than—

21                               “(I) employment under the Student  
22                               Educational Employment Program admin-  
23                               istered by the Office of Personnel Manage-  
24                               ment;

1           “(II) employment as a law clerk train-  
2           ee;

3           “(III) employment under a short-term  
4           temporary appointing authority while a  
5           student during periods of vacation from  
6           the educational institution at which the  
7           student is enrolled;

8           “(IV) employment under a provisional  
9           appointment if the new appointment is per-  
10          manent and immediately follows the provi-  
11          sional appointment; or

12          “(V) employment under a temporary  
13          appointment that is neither full-time nor  
14          the principal employment of the individual;

15          “(B) the term ‘period of qualified non-Federal  
16          service’ means any period of service performed by an  
17          individual that—

18                 “(i) was performed in a position the duties  
19                 of which were directly related to the duties of  
20                 the position in the Administration which that  
21                 individual will fill as a newly appointed em-  
22                 ployee; and

23                 “(ii) except for this section, would not oth-  
24                 erwise be service performed by an employee for  
25                 purposes of section 6303; and



1 and 'career appointee' have the meanings set forth in sec-  
2 tion 3132(a).

3       “(b) Subject to succeeding provisions of this section,  
4 the Administrator may, notwithstanding any other provi-  
5 sion of this title, fill a career reserved position on a tem-  
6 porary basis, but only if—

7               “(1) such position is vacant as a result of—

8                       “(A) the separation of the incumbent; or

9                       “(B) the temporary absence of the incum-  
10                      bent due to illness, training, or reassignment;

11                      or

12               “(2) such position is or would be difficult to fill  
13                      in any other manner due to the fact that such posi-  
14                      tion is likely to be eliminated within the next 2  
15                      years.

16       “(c) Notwithstanding sections 3132 and 3394(b), an  
17 appointment made by the Administrator under subsection  
18 (b) shall not exceed 2 years.

19       “(d) The Administrator may extend an appointment  
20 under subsection (b) for as long as necessary to meet a  
21 contingency described in subsection (b)(1), but for not to  
22 exceed 1 year and not if the circumstance described in  
23 subsection (b)(2) pertains.

24       “(e) The number of career reserved positions filled  
25 under subsection (b) may not at any time exceed 10 per-

1 cent of the total number of Senior Executive Service posi-  
2 tions then authorized for the Administration under section  
3 3133.

4 “(f) An individual appointed to a career reserved po-  
5 sition on a temporary basis under subsection (b) shall, if  
6 such individual was so appointed from a civil service posi-  
7 tion held under a career or career-conditional appoint-  
8 ment, be entitled, upon completion of that temporary ap-  
9 pointment, to be reemployed in the position from which  
10 such individual was so appointed (or an equivalent posi-  
11 tion), in accordance with such regulations as the Office  
12 of Personnel Management may prescribe.

13 “(g) An appointment to a career reserved position on  
14 a temporary basis under subsection (b) may not be made  
15 without the prior approval of the Office of Personnel Man-  
16 agement if the individual—

17 “(1) is to be appointed—

18 “(A) from outside the Federal Govern-  
19 ment; or

20 “(B) from a civil service position held  
21 under an appointment other than a career or  
22 career-conditional appointment; or

23 “(2) is a senior executive, but not a career ap-  
24 pointee.



1       “(h) An individual appointed to a career reserved po-  
2 sition on a temporary basis under subsection (b) who is  
3 not a career appointee shall, for purposes of performance  
4 awards under section 5334, be treated as a career ap-  
5 pointee.

6 **“§ 9816. Qualifications pay**

7       “(a) Notwithstanding section 5334, the Adminis-  
8 trator may set the pay of an employee paid under the Gen-  
9 eral Schedule at any step within the pay range for the  
10 grade of the position, if such employee—

11               “(1) possesses unusually high or unique quali-  
12 fications; and

13               “(2) is assigned—

14                       “(A) new duties, without a change of posi-  
15 tion; or

16                       “(B) to a new position.

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

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

1       “(d) If the employee serves for at least 1 year in the  
2 position for which the pay determination under this sec-  
3 tion was made, or a successor position, the pay earned  
4 under such position may be used in succeeding actions to  
5 set pay under chapter 53.

6       “(e) Before setting any employee’s pay under this  
7 section, the Administrator shall submit a plan to the Of-  
8 fice of Personnel Management and the appropriate com-  
9 mittees of Congress, that includes—

10           “(1) criteria for approval of actions to set pay  
11 under this section;

12           “(2) the level of approval required to set pay  
13 under this section;

14           “(3) all types of actions and positions to be cov-  
15 ered;

16           “(4) the relationship between the exercise of au-  
17 thority under this section and the use of other pay  
18 incentives; and

19           “(5) a process to evaluate the effectiveness of  
20 this section.

21 **“§ 9817. Reporting requirement**

22       “The Administrator shall submit to the appropriate  
23 committees of Congress, not later than February 28 of  
24 each of the next 10 years beginning after the date of en-

1 actment of this chapter, a report that provides the fol-  
2 lowing:

3           “(1) A summary of all bonuses paid under sub-  
4 sections (b)–(c) of section 9804 during the preceding  
5 fiscal year. Such summary shall include the total  
6 amount of bonuses paid, the total number of bo-  
7 nuses paid, the percentage of bonuses awarded to  
8 supervisors, and the average percentage used to cal-  
9 culate the total average bonus amount, under each  
10 of those subsections.

11           “(2) A summary of all bonuses paid under sub-  
12 sections (b)–(c) of section 9805 during the preceding  
13 fiscal year. Such summary shall include the total  
14 amount of bonuses paid, the total number of bo-  
15 nuses paid, the percentage of bonuses awarded to  
16 supervisors, and the average percentage used to cal-  
17 culate the total average bonus amount, under each  
18 of those subsections.

19           “(3) The total number of term appointments  
20 converted during the preceding fiscal year under sec-  
21 tion 9806 and, of that total number, the number of  
22 conversions that were made to address a critical  
23 need described in the workforce plan pursuant to  
24 section 9802(b)(2).

1           “(4) The number of positions for which the rate  
2 of basic pay was fixed under section 9807 during the  
3 preceding fiscal year, the number of positions for  
4 which the rate of basic pay under such section was  
5 terminated during the preceding fiscal year, and the  
6 number of times the rate of basic pay was fixed  
7 under such section to address a critical need de-  
8 scribed in the workforce plan pursuant to section  
9 9802(b)(2).

10           “(5) The number of scholarships awarded  
11 under section 9811 during the preceding fiscal year  
12 and the number of scholarship recipients appointed  
13 by the Administration during the preceding fiscal  
14 year.

15           “(6) The total number of distinguished scholar  
16 appointments made under section 9812 during the  
17 preceding fiscal year and, of that total number, the  
18 number of appointments that were made to address  
19 a critical need described in the workforce plan pur-  
20 suant to section 9802(b)(2).

21           “(7) The average amount paid per appointee,  
22 and the largest amount paid to any appointee, under  
23 section 9813 during the preceding fiscal year for  
24 travel and transportation expenses.

1           “(8) The total number of employees who were  
2           awarded enhanced annual leave under section 9814  
3           during the preceding fiscal year; of that total num-  
4           ber, the number of employees who were serving in a  
5           position addressing a critical need described in the  
6           workforce plan pursuant to section 9802(b)(2); and,  
7           for employees in each of those respective groups, the  
8           average amount of additional annual leave such em-  
9           ployees earned in the preceding fiscal year (over and  
10          above what they would have earned absent section  
11          9814).

12          “(9) The total number of appointments made  
13          under section 9815 during the preceding fiscal year  
14          and, of that total number, the number of appoint-  
15          ments that were made to address a critical need de-  
16          scribed in the workforce plan pursuant to section  
17          9802(b)(2).

18          “(10) The number of employees for whom the  
19          Administrator set the pay under section 9816 during  
20          the preceding fiscal year and the number of times  
21          pay was set under such section to address a critical  
22          need described in the workforce plan pursuant to  
23          section 9802(b)(2).”.

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

**“98. National Aeronautics and Space Administration ..... 9801”.**

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