

**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”.

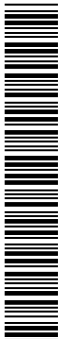
**4 SEC. 2. COMPENSATION FOR CERTAIN EXCEPTED PER-
5 SONNEL.**

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;

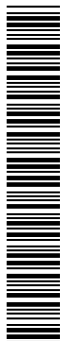
9 “(5) the safeguards or other measures that will
10 be applied to ensure that this chapter is carried out
11 in a manner consistent with merit system principles;

12 “(6) the means by which employees will be af-
13 forded the notification required under subsections
14 (c) 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);

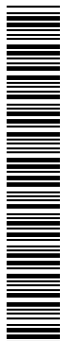
7 “(2) to the extent that they did not, an expla-
8 nation of the reasons why any critical need (apart
9 from the ones under subsection (b)(3)) was not suc-
10 cessfully addressed; and

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—

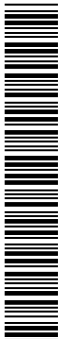
10 “(1) the Administrator determines that the Ad-
11 ministration would be likely, in the absence of a
12 bonus, to encounter difficulty in filling a position;
13 and

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 (c)(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.

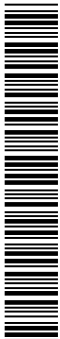
13 “(e) A bonus under this section may not be consid-
14 ered to be part of the basic pay of an employee.

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 “(c) 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.

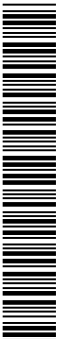
3 “(2) Individuals shall be selected to receive scholar-
4 ships under this section through a competitive process pri-
5 marily on the basis of academic merit, with consideration
6 given to financial need and the goal of promoting the par-
7 ticipation of individuals identified in section 33 or 34 of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

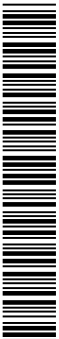
4 “(c) An individual seeking a scholarship under this
5 section shall submit an application to the Administrator
6 at such time, in such manner, and containing such infor-
7 mation, agreements, or assurances as the Administrator
8 may require.

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 (c), 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.

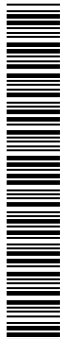
21 “(B) The Administrator may defer the obligation of
22 an individual to provide a period of service under para-
23 graph (1) if the Administrator determines that such a de-
24 ferral is appropriate. The Administrator shall prescribe



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

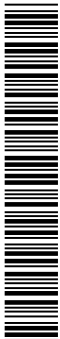
3 “(B) is covered by the Group Coverage
4 Qualification Standard for Professional and Sci-
5 entific Positions; and

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 laurate degrees, a baccalaureate degree in a



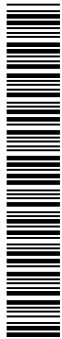
1 field of study for which possession of that de-
2 gree in conjunction with academic achievements
3 meets the qualification standards as prescribed
4 by the Office of Personnel Management for the
5 position to which the individual is being ap-
6 pointed; and

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(c)(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)–(c) 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

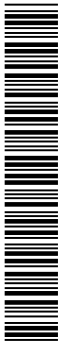


1 and the number of scholarship recipients appointed
2 by the Administration during the preceding fiscal
3 year.

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”.

