

## Calendar No. 236

108TH CONGRESS  
1ST SESSION**S. 610****[Report No. 108–113]**

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.

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 IN THE SENATE OF THE UNITED STATES

MARCH 13, 2003

Mr. VOINOVICH (for himself, Mr. NELSON of Florida, Mr. LOTT, Mr. COCHRAN, Mr. STEVENS, Mr. SESSIONS, Mr. SHELBY, Mr. ALLEN, and Mr. COLEMAN) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

JULY 28 (legislative day, JULY 21), 2003

Reported by Ms. COLLINS, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italie*]

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**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.

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 Workforce  
3 Flexibility Act of 2003”.

4 **SEC. 2. WORKFORCE AUTHORITIES AND PERSONNEL PRO-**  
5 **VISIONS.**

6       (a) IN GENERAL.—Subpart I of part III of title 5,  
7 United States Code, is amended by adding at the end the  
8 following:

9 **“CHAPTER 99—NATIONAL AERONAUTICS**  
10 **AND SPACE ADMINISTRATION**

“SUBCHAPTER I—WORKFORCE AUTHORITIES

“Sec.

“9901. Definitions:

“9902. Planning, notification, and reporting requirements:

“9903. Workforce authorities:

“9904. Recruitment, redesignation, and relocation bonuses:

“9905. Retention bonuses:

“9906. Term appointments:

“9907. Pay authority for critical positions:

“9908. Assignments of intergovernmental personnel:

“9909. Enhanced demonstration project authority:

“SUBCHAPTER II—PERSONNEL PROVISIONS

“9931. Definitions:

“9932. Administration and private sector exchange assignments:

“9933. Science and technology scholarship program:

“9934. Distinguished scholar appointment authority:

“9935. Travel and transportation expenses of certain new appointees:

“9936. Annual leave enhancements:

“9937. Limited appointments to Senior Executive Service positions:

“9938. Superior qualifications pay:

11 **“SUBCHAPTER I—WORKFORCE AUTHORITIES**

12 **“§ 9901. Definitions**

13       In this subchapter—

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

1           ~~“(2) the term ‘Administrator’ means the Ad-~~  
 2           ~~ministrator of the National Aeronautics and Space~~  
 3           ~~Administration;~~

4           ~~“(3) the term ‘critical need’ means a specific~~  
 5           ~~and important requirement of the Administration’s~~  
 6           ~~mission that the Administration is unable to fulfill~~  
 7           ~~because the Administration lacks the appropriate~~  
 8           ~~employees because of—~~

9                     ~~“(A) the inability to fill positions; or~~

10                    ~~“(B) employees do not possess the req-~~  
 11                    ~~uisite skills;~~

12           ~~“(4) the term ‘employee’ means an individual~~  
 13           ~~employed in or under the Administration; and~~

14           ~~“(5) the term ‘workforce plan’ means the plan~~  
 15           ~~required under section 9902(a).~~

16   **~~“§ 9902. Planning, notification, and reporting require-~~**  
 17                     **~~ments~~**

18           ~~“(a) Before exercising any of the workforce authori-~~  
 19           ~~ties under this subchapter, the Administrator shall submit~~  
 20           ~~a written plan to the Office of Personnel Management for~~  
 21           ~~approval. A plan under this subchapter may not be imple-~~  
 22           ~~mented without the approval of the Office of Personnel~~  
 23           ~~Management.~~

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

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

4           “(2)(A) the functions, approximate number,  
5           and classes or other categories of positions or em-  
6           ployees that—

7                   “(i) address critical needs; and

8                   “(ii) would be eligible for each authority  
9           proposed to be exercised under section 9903;  
10          and

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

15          “(3)(A) any critical need identified under para-  
16          graph (1) which would not be addressed by the au-  
17          thorities made available under section 9903; and

18          “(B) the reasons why those needs would not be  
19          so addressed;

20          “(4) the specific criteria to be used in deter-  
21          mining which individuals may receive the benefits  
22          described under sections 9904 and 9905 (including  
23          the criteria for granting bonuses in the absence of  
24          a critical need); and how the level of those benefits  
25          will be determined;

1           ~~“(5) the safeguards or other measures that will~~  
2           ~~be applied to ensure that this subchapter is carried~~  
3           ~~out in a manner consistent with merit system prin-~~  
4           ~~ciples;~~

5           ~~“(6) the means by which employees will be af-~~  
6           ~~forded the notification required under subsections~~  
7           ~~(c) and (d)(1)(B); and~~

8           ~~“(7) the methods that will be used to determine~~  
9           ~~if the authorities exercised under section 9903 have~~  
10          ~~successfully addressed each critical need identified~~  
11          ~~under paragraph (1).~~

12          ~~“(e) Not later than 60 days before first exercising~~  
13          ~~any of the workforce authorities made available under this~~  
14          ~~subchapter, the Administrator shall provide to all employ-~~  
15          ~~ees the workforce plan, and any additional information~~  
16          ~~which the Administrator considers appropriate.~~

17          ~~“(d)(1)(A) The Administrator may submit any modi-~~  
18          ~~fications to the workforce plan to the Office of Personnel~~  
19          ~~Management. Modifications to the workforce plan may not~~  
20          ~~be implemented without the approval of the Office of Per-~~  
21          ~~sonnel Management.~~

22          ~~“(B) Not later than 60 days before implementing any~~  
23          ~~such modifications, the Administrator shall provide an ap-~~  
24          ~~propriately modified plan to all employees of the Adminis-~~  
25          ~~tration.~~

1       ~~“(2) Any reference in this subchapter or any other~~  
 2       ~~provision of law to the workforce plan shall be considered~~  
 3       ~~to include any modification made in accordance with this~~  
 4       ~~subsection.~~

5       ~~“(e) None of the workforce authorities made available~~  
 6       ~~under section 9903 may be exercised in a manner incon-~~  
 7       ~~sistent with the workforce plan.~~

8       ~~“(f) Whenever the Administration submits its per-~~  
 9       ~~formance plan under section 1115 of title 31 to the Office~~  
 10       ~~of Management and Budget for any year, the Administra-~~  
 11       ~~tion shall at the same time submit a copy of such plan~~  
 12       ~~to—~~

13               ~~“(1) the Committee on Governmental Affairs~~  
 14               ~~and the Committee on Appropriations of the Senate;~~  
 15               ~~and~~

16               ~~“(2) the Committee on Government Reform and~~  
 17               ~~the Committee on Appropriations of the House of~~  
 18               ~~Representatives.~~

19       **~~“§ 9903. Workforce authorities~~**

20       ~~“(a) The workforce authorities under this subchapter~~  
 21       ~~are the following:~~

22               ~~“(1) The authority to pay recruitment, redesign-~~  
 23               ~~ation, and relocation bonuses under section 9904.~~

24               ~~“(2) The authority to pay retention bonuses~~  
 25               ~~under section 9905.~~

1           ~~“(3) The authority to make term appointments~~  
 2           ~~and to take related personnel actions under section~~  
 3           ~~9906.~~

4           ~~“(4) The authority to fix rates of basic pay for~~  
 5           ~~critical positions under section 9907.~~

6           ~~“(5) The authority to extend intergovernmental~~  
 7           ~~personnel act assignments under section 9908.~~

8           ~~“(b) No authority under this subchapter may be exer-~~  
 9           ~~cised with respect to any officer who is appointed by the~~  
 10          ~~President, by and with the advice and consent of the Sen-~~  
 11          ~~ate.~~

12          ~~“(c) Unless specifically stated otherwise, all authori-~~  
 13          ~~ties provided under this subchapter are subject to section~~  
 14          ~~5307.~~

15          **~~“§ 9904. Recruitment, redesignation, and relocation~~**  
 16                                   **~~bonuses~~**

17          ~~“(a) Notwithstanding section 5753, the Adminis-~~  
 18          ~~trator may pay a bonus to an individual, in accordance~~  
 19          ~~with the workforce plan and subject to the limitations in~~  
 20          ~~this section, if—~~

21                 ~~“(1) the Administrator determines that the Ad-~~  
 22                 ~~ministration would be likely, in the absence of a~~  
 23                 ~~bonus, to encounter difficulty in filling a position;~~  
 24                 ~~and~~

25                 ~~“(2) the individual—~~

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

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

6           “(C) is currently employed by the Federal  
7           Government and is required to relocate to a dif-  
8           ferent geographic area to accept a position with  
9           the Administration.

10          “(b) If the position is described as addressing a crit-  
11          ical need in the workforce plan under section  
12          9902(b)(2)(A), the amount of a bonus may not exceed—

13               “(1) 50 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 multiplied by the service period  
17          specified under subsection (d)(1)(B)(i); or

18               “(2) 100 percent of the employee’s annual rate  
19          of basic pay (including comparability payments  
20          under sections 5304 and 5304a) as of the beginning  
21          of the service period.

22          “(c) If the position is not described as addressing a  
23          critical need in the workforce plan under section  
24          9902(b)(2)(A), the amount of a bonus may not exceed—



1           ~~“(1) 25 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 multiplied by the service period~~  
 5           ~~specified under subsection (d)(1)(B)(i); or~~

6           ~~“(2) 100 percent of the employee’s annual rate~~  
 7           ~~of basic pay (including comparability payments~~  
 8           ~~under sections 5304 and 5304a) as of the beginning~~  
 9           ~~of the service period.~~

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

13          ~~“(B) At a minimum, the service agreement shall in-~~  
 14          ~~clude—~~

15                 ~~“(i) the required service period;~~

16                 ~~“(ii) the method of payment, including a pay-~~  
 17                 ~~ment schedule, which may include a lump-sum pay-~~  
 18                 ~~ment, installment payments, or a combination there-~~  
 19                 ~~of;~~

20                 ~~“(iii) the amount of the bonus and the basis for~~  
 21                 ~~calculating that amount; and~~

22                 ~~“(iv) the conditions under which the agreement~~  
 23                 ~~may be terminated before the agreed-upon service~~  
 24                 ~~period has been completed; and the effect of the ter-~~  
 25                 ~~mination.~~

1       “(2) For purposes of determinations under sub-  
 2 sections (b)(1) and (c)(1), the employee’s service period  
 3 shall be expressed as the number equal to the full years  
 4 and twelfth parts thereof, rounding the fractional part of  
 5 a month to the nearest twelfth part of a year. The service  
 6 period may not be less than 6 months and may not exceed  
 7 4 years.

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

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

14       **“§ 9905. Retention bonuses**

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

19               “(1) the unusually high or unique qualifications  
 20 of the employee or a special need of the Administra-  
 21 tion for the employee’s services makes it essential to  
 22 retain the employee; and

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

1       “(b) If the position is described as addressing a crit-  
 2 ical need in the workforce plan under section  
 3 9902(b)(2)(A), the amount of a bonus may not exceed 50  
 4 percent of the employee’s annual rate of basic pay (includ-  
 5 ing comparability payments under sections 5304 and  
 6 5304a).

7       “(c) If the position is not described as addressing a  
 8 critical need in the workforce plan under section  
 9 9902(b)(2)(A), the amount of a bonus may not exceed 25  
 10 percent of the employee’s annual rate of basic pay (includ-  
 11 ing comparability payments under sections 5304 and  
 12 5304a).

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

16       “(B) At a minimum, the service agreement shall in-  
 17 clude—

18               “(i) the required service period;

19               “(ii) the method of payment, including a pay-  
 20 ment schedule, which may include a lump-sum pay-  
 21 ment, installment payments, or a combination there-  
 22 of;

23               “(iii) the amount of the bonus and the basis for  
 24 calculating the amount; and

1           “(iv) the conditions under which the agreement  
2           may be terminated before the agreed-upon service  
3           period has been completed; and the effect of the ter-  
4           mination.

5           “(2) The employee’s service period shall be expressed  
6           as the number equal to the full years and twelfth parts  
7           thereof, rounding the fractional part of a month to the  
8           nearest twelfth part of a year. The service period may not  
9           be less than 6 months and may not exceed 4 years.

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

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

22          “(f) An employee is not entitled to a retention bonus  
23          under this section during a service period previously estab-  
24          lished for that employee under section 5753, or under sec-  
25          tion 9904.

1 **“§ 9906. Term appointments**

2 “(a) The Administrator may authorize term appoint-  
 3 ments within the Administration under subchapter I of  
 4 chapter 33, for a period of not less than 1 year and not  
 5 more than 6 years.

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

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

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

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

23 “(4) the employee’s performance under such  
 24 term appointment was at least fully successful or  
 25 equivalent; and

1           “(5) the position to which such employee is  
 2           being converted under this section is in the same oc-  
 3           cupational series, is in the same geographic location,  
 4           and provides no greater promotion potential than  
 5           the term position for which the competitive examina-  
 6           tion was conducted.

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

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

20          “(e) An employee converted to career or career-condi-  
 21          tional employment under this section acquires competitive  
 22          status upon conversion.

23       **“§ 9907. Pay authority for critical positions**

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

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

3           “(2) a position under the Executive Schedule  
4           under sections 5312 through 5317;

5           “(3) a position established under section 3104;  
6           or

7           “(4) a senior-level position to which section  
8           5376(a)(1) applies.

9           “(b) Authority under this section—

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

12           “(A) is described as addressing a critical  
13           need in the workforce plan under section  
14           9902(b)(2)(A); and

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

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

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

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

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

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

12       ~~“(2) The annual rate of basic pay fixed under this~~  
 13       ~~section may not exceed the per annum rate of salary pay-~~  
 14       ~~able under section 104 of title 3.~~

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



1 rate of salary which, as of the end of such calendar year,  
 2 is payable under section 104 of title 3.

3 **“§ 9908. Assignments of intergovernmental personnel**

4 “For purposes of applying the third sentence of sec-  
 5 tion 3372(a) (relating to the authority of the head of a  
 6 Federal agency to extend the period of an employee’s as-  
 7 signment to or from a State or local government, institu-  
 8 tion of higher education, or other organization), the Ad-  
 9 ministrator may, with the concurrence of the employee and  
 10 the government or organization concerned, take any action  
 11 which would be allowable if such sentence had been  
 12 amended by striking ‘two’ and inserting ‘four’.

13 **“§ 9909. Enhanced demonstration project authority**

14 “When conducting a demonstration project at the Ad-  
 15 ministration, section 4703(d)(1)(A) may be applied by  
 16 substituting ‘such numbers of individuals as determined  
 17 by the Administrator’ for ‘not more than 5,000 individ-  
 18 uals’.

19 **“SUBCHAPTER H—PERSONNEL PROVISIONS**

20 **“§ 9931. Definitions**

21 In this subchapter—

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

1           “(2) the term ‘Administrator’ means the Ad-  
 2           ministrator of the National Aeronautics and Space  
 3           Administration.

4   **“§ 9932. Administration and private sector exchange**  
 5           **assignments**

6           “(a) In this section—

7           “(1) the term ‘private sector employee’ means  
 8           an employee of a private sector entity; and

9           “(2) the term ‘private sector entity’ means an  
 10          organization, company, corporation, or other busi-  
 11          ness concern, or a foreign government or agency of  
 12          a foreign government, that is not a State, local gov-  
 13          ernment, Federal agency, or other organization as  
 14          defined under section 3371 (1), (2), (3), and (4), re-  
 15          spectively.

16          “(b)(1) On request from or with the concurrence of  
 17          a private sector entity, and with the consent of the em-  
 18          ployee concerned, the Administrator may arrange for the  
 19          assignment of—

20          “(A) an employee of the Administration serving  
 21          under a career or career-conditional appointment, a  
 22          career appointee in the Senior Executive Service, or  
 23          an individual under an appointment of equivalent  
 24          tenure in an excepted service position, but excluding  
 25          employees in positions which have been excepted

1 from the competitive service by reasons of their con-  
2 fidential, policy-determining, policymaking, or policy-  
3 advocating character, to a private sector entity; and

4 “(B) an employee of a private sector entity to  
5 the Administration;

6 for work of mutual concern to the Administration and the  
7 private sector entity that the Administrator determines  
8 will be beneficial to both.

9 “(2) The period of an assignment under this section  
10 may not exceed 2 years. However, the Administrator may  
11 extend the period of assignment for not more than 2 addi-  
12 tional years.

13 “(3) An employee of the Administration may be as-  
14 signed under this section only if the employee agrees, as  
15 a condition of accepting an assignment, to serve in the  
16 Administration upon the completion of the assignment for  
17 a period equal to the length of the assignment. The Ad-  
18 ministrator may waive the requirement under this para-  
19 graph, with the approval of the Office of Management and  
20 Budget, with respect to any employee if the Administrator  
21 determines it to be in the best interests of the United  
22 States to do so.

23 “(4) Each agreement required under paragraph (3)  
24 shall provide that if the employee fails to carry out the  
25 agreement (except in the case of a waiver made under

1 paragraph (3)), the employee shall be liable to the United  
 2 States for payment of all expenses (excluding salary) of  
 3 the assignment. The amount due shall be treated as a debt  
 4 due the United States.

5 “(c)(1) An Administration employee assigned to a  
 6 private sector entity under this section is deemed, during  
 7 the assignment, to be on detail to a work assignment (as  
 8 a detailee to the entity).

9 “(2) An Administration employee assigned under this  
 10 section on detail remains an employee of the Administra-  
 11 tion. Chapter 171 of title 28 and any other Federal tort  
 12 liability statute apply to the Administration employee so  
 13 assigned, and all defenses available to the United States  
 14 under these laws or applicable provisions of State law shall  
 15 remain in effect. The supervision of the duties of an Ad-  
 16 ministration employee assigned to the private sector entity  
 17 through detail may be governed by agreement between the  
 18 Administration and the private sector entity concerned.

19 “(3) The assignment of an Administration employee  
 20 on detail to a private sector entity under this section may  
 21 be made with or without reimbursement by the private sec-  
 22 tor entity for the travel and transportation expenses to  
 23 or from the place of assignment, for the pay, or supple-  
 24 mental pay, or a part thereof, of the employee, or for the  
 25 contribution of the Administration to the employee’s ben-

1 ~~efit systems during the assignment. Any reimbursements~~  
 2 ~~shall be credited to the appropriation of the Administra-~~  
 3 ~~tion used for paying the travel and transportation ex-~~  
 4 ~~penses, pay, or benefits, and not paid to the employee.~~

5       ~~“(d)(1) An employee of a private sector entity who~~  
 6 ~~is assigned to the Administration under an arrangement~~  
 7 ~~under this section shall be deemed on detail to the Admin-~~  
 8 ~~istration.~~

9       ~~“(2) During the period of assignment, a private sec-~~  
 10 ~~tor employee on detail to the Administration—~~

11           ~~“(A) is not entitled to pay from the Administra-~~  
 12 ~~tion, except to the extent that the pay received from~~  
 13 ~~the private sector entity is less than the appropriate~~  
 14 ~~rate of pay which the duties would warrant under~~  
 15 ~~the pay provisions of this title or other applicable~~  
 16 ~~authority;~~

17           ~~“(B) is deemed an employee of the Administra-~~  
 18 ~~tion for the purpose of chapter 73 of this title; the~~  
 19 ~~Ethics in Government Act of 1978, section 27 of the~~  
 20 ~~Office of Federal Procurement Policy Act, sections~~  
 21 ~~201, 203, 205, 207, 208, 209, 602, 603, 606, 607,~~  
 22 ~~610, 643, 654, 1905, and 1913 of title 18, sections~~  
 23 ~~1343, 1344, and 1349(b) of title 31, chapter 171 of~~  
 24 ~~title 28, and any other Federal tort liability statute;~~

1       and any other provision of Federal criminal law, un-  
2       less otherwise specifically exempted;

3           ~~“(C) notwithstanding subparagraph (B), is also~~  
4       deemed to be an employee of his or her private sec-  
5       tor employer for purposes of section 208 of title 18;  
6       and

7           ~~“(D) is subject to such regulations as the Ad-~~  
8       ministrator may prescribe.

9       ~~“(3) The supervision of the duties of an employee as-~~  
10      signed under this subsection may be governed by agree-  
11      ment between the Administration and the private sector  
12      entity.

13       ~~“(4) A detail of a private sector employee to the Ad-~~  
14      ministration may be made with or without reimbursement  
15      by the Administration for the pay, or a part thereof, of  
16      the employee during the period of assignment, or for the  
17      contribution of the private sector entity, or a part thereof,  
18      to employee benefit systems.

19       ~~“(5)(A) A private sector employee on detail to the~~  
20      Administration under this section who suffers disability or  
21      dies as a result of personal injury sustained while in the  
22      performance of duties during the assignment shall be  
23      treated, for the purpose of subchapter I of chapter 81 as  
24      an employee as defined under section 8101 who had sus-  
25      tained the injury in the performance of duties.

1       “(B) When an employee (or the employee’s depend-  
 2       ents in case of death) entitled by reason of injury or death  
 3       to benefits under subchapter I of chapter 81 is also enti-  
 4       tled to benefits from the employee’s private sector em-  
 5       ployer for the same injury or death, the employee (or the  
 6       employee’s dependents in case of death) shall elect which  
 7       benefits the employee will receive. The election shall be  
 8       made within 1 year after the injury or death, or such fur-  
 9       ther time as the Secretary of Labor may allow for reason-  
 10      able cause shown. When made, the election is irrevocable.

11      “(C) Except as provided in subparagraphs (A) and  
 12      (B), and notwithstanding any other law, the United  
 13      States, any instrumentality of the United States, or an  
 14      employee, agent, or assign of the United States shall not  
 15      be liable to—

16           “(i) a private sector employee assigned to the  
 17      Administration under this section;

18           “(ii) such employee’s legal representative,  
 19      spouse, dependents, survivors, or next of kin; or

20           “(iii) any other person, including any third  
 21      party as to whom such employee, or that employee’s  
 22      legal representative, spouse, dependents, survivors,  
 23      or next of kin, has a cause of action arising out of  
 24      an injury or death sustained in the performance of  
 25      duty pursuant to an assignment under this section;

1 otherwise entitled to recover damages from the  
2 United States, any instrumentality of the United  
3 States, or any employee, agency, or assign of the  
4 United States;

5 with respect to any injury or death suffered by a private  
6 sector employee sustained in the performance of duties  
7 pursuant to an assignment under this section.

8 “(e)(1) Appropriations of the Administration are  
9 available to pay, or reimburse, an Administration or pri-  
10 vate sector employee in accordance with—

11 “(A) subchapter I of chapter 57 for the ex-  
12 penses of—

13 “(i) travel, including a per diem allowance,  
14 to and from the assignment location;

15 “(ii) a per diem allowance at the assign-  
16 ment location during the period of the assign-  
17 ment; and

18 “(iii) travel, including a per diem allow-  
19 ance, while traveling on official business away  
20 from the employee’s designated post of duty  
21 during the assignment when the Administrator  
22 considers the travel to be in the interest of the  
23 United States;

24 “(B) section 5724 for the expenses of transpor-  
25 tation of the employee’s immediate family, household



1 goods, and personal effects to and from the assign-  
2 ment location;

3 ~~“(C) section 5724a(a) for the expenses of per~~  
4 ~~diem allowances for the immediate family of the em-~~  
5 ~~ployee to and from the assignment location;~~

6 ~~“(D) section 5724a(e) for subsistence expenses~~  
7 ~~of the employee and immediate family while occu-~~  
8 ~~pying temporary quarters at the assignment location~~  
9 ~~and on return to the employee’s former post of duty;~~

10 ~~“(E) section 5724a(g) to be used by the em-~~  
11 ~~ployee for miscellaneous expenses related to change~~  
12 ~~of station where movement or storage of household~~  
13 ~~goods is involved; and~~

14 ~~“(F) section 5726(e) for the expenses of non-~~  
15 ~~temporary storage of household goods and personal~~  
16 ~~effects in connection with assignment at an isolated~~  
17 ~~location.~~

18 ~~“(2) Expenses specified in paragraph (1); other than~~  
19 ~~those in paragraph (1)(A)(iii); may not be allowed in con-~~  
20 ~~nection with the assignment of an Administration or pri-~~  
21 ~~vate sector employee under this section, unless and until~~  
22 ~~the employee agrees in writing to complete the entire pe-~~  
23 ~~riod of his assignment or 1 year, whichever is shorter, un-~~  
24 ~~less separated or reassigned for reasons beyond his control~~  
25 ~~that are acceptable to the Administrator. If the employee~~

1 violates the agreement, the money spent by the United  
 2 States for these expenses is recoverable from the employee  
 3 as a debt due the United States. The Administrator may  
 4 waive in whole or in part a right of recovery under this  
 5 paragraph with respect to a private sector employee on  
 6 assignment with the Administration or an Administration  
 7 employee on assignment with a private sector entity.

8       “(3) Appropriations of the Administration are avail-  
 9 able to pay expenses under section 5742 with respect to  
 10 an Administration or private sector employee assigned  
 11 under this authority.

12       “(f) A private sector entity may not charge the Fed-  
 13 eral Government, as direct or indirect costs under a Fed-  
 14 eral contract, the costs of pay or benefits paid by the enti-  
 15 ty to an employee assigned to the Administration under  
 16 this section for the period of the assignment.

17 **“§ 9933. Science and technology scholarship program**

18       “(a)(1) The Administrator may carry out a program  
 19 of entering into contractual agreements with individuals  
 20 described under paragraph (2) under which—

21               “(A) the Administrator agrees to provide to the  
 22 individuals scholarships for pursuing, at accredited  
 23 institutions of higher education, academic programs  
 24 appropriate for careers in professions needed by the  
 25 Administration; and

1           ~~“(B) the individuals agree to serve as employees~~  
 2           ~~of the Administration, for the period described under~~  
 3           ~~subsection (b), in positions needed by the Adminis-~~  
 4           ~~tration and for which the individuals are qualified.~~

5           ~~“(2) The individuals referred to under paragraph (1)~~  
 6           ~~are individuals who—~~

7           ~~“(A) are enrolled or accepted for enrollment as~~  
 8           ~~full-time students at accredited institutions of higher~~  
 9           ~~education in an academic field or discipline pre-~~  
 10          ~~scribed by the Administration;~~

11          ~~“(B) are United States citizens; and~~

12          ~~“(C) at the time of the initial scholarship~~  
 13          ~~award, are not Federal employees as defined under~~  
 14          ~~section 2105.~~

15          ~~“(b)(1) For purposes of subsection (a)(1)(B), the pe-~~  
 16          ~~riod of service for which an individual is obligated to serve~~  
 17          ~~as an employee of the Administration is, subject to sub-~~  
 18          ~~paragraph (A) of paragraph (2), 12 months for each aca-~~  
 19          ~~demic year for which the scholarship under such sub-~~  
 20          ~~section is provided.~~

21          ~~“(2)(A) Subject to subparagraph (B), the Adminis-~~  
 22          ~~trator may provide a scholarship under this section if the~~  
 23          ~~individual applying for the scholarship agrees that, not~~  
 24          ~~later than 60 days after obtaining the educational degree~~  
 25          ~~involved, the individual will begin serving full-time as an~~

1 employee in satisfaction of the period of service that the  
 2 individual is obligated to provide.

3       ~~“(B) The Administrator may defer the obligation of~~  
 4 ~~an individual to provide a period of service under this sub-~~  
 5 ~~section, if the Administrator determines that such a defer-~~  
 6 ~~ral is appropriate.~~

7       ~~“(c)(1) The Administrator may provide a scholarship~~  
 8 ~~under subsection (a) for an academic year if—~~

9           ~~“(A) the individual applying for the scholarship~~  
 10 ~~has submitted to the Administrator a proposed aca-~~  
 11 ~~demic program leading to a degree in an academic~~  
 12 ~~field or discipline approved by the Administration; or~~

13           ~~“(B) the individual agrees that the program will~~  
 14 ~~not be altered without the approval of the Adminis-~~  
 15 ~~trator.~~

16       ~~“(2) The Administrator may provide a scholarship~~  
 17 ~~under this section for an academic year if the individual~~  
 18 ~~applying for the scholarship agrees to maintain a high~~  
 19 ~~level of academic standing as defined by regulation.~~

20       ~~“(3) The dollar amount of a scholarship for an aca-~~  
 21 ~~demic year shall not exceed—~~

22           ~~“(A) the limits established by regulation under~~  
 23 ~~paragraph (4); or~~

24           ~~“(B) the total costs incurred in attending the~~  
 25 ~~institution involved.~~

1       “(4) A scholarship may be expended for tuition, fees,  
2 and other authorized expenses as established by regula-  
3 tion.

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

10       “(6) An individual may not receive a scholarship for  
11 longer than 4 academic years, unless an extension is  
12 granted by the Administrator.

13       “(d)(1)(A) Any scholarship recipient who fails to  
14 maintain a high level of academic standing, who is dis-  
15 missed from an educational institution for disciplinary  
16 reasons, or who voluntarily terminates academic training  
17 before graduation from the educational program for which  
18 the scholarship was awarded, shall—

19               “(i) be in breach of the contractual agreement;  
20 and

21               “(ii) in lieu of any service obligation arising  
22 under such agreement, be liable to the United States  
23 for repayment of all scholarship funds paid to that  
24 recipient and to the educational institution on their

1       behalf under the agreement within 1 year after the  
2       date of default.

3       ~~“(B) The repayment period may be extended by the~~  
4       Administrator when determined to be necessary, as estab-  
5       lished by regulation. A penalty for failure to complete the  
6       academic program for which the scholarship was awarded  
7       may be assessed at the discretion of the Administrator,  
8       in addition to the repayment with interest as provided  
9       under paragraph (3).

10       ~~“(2)(A) A scholarship recipient who, for any reason,~~  
11       fails to begin or complete that recipient’s service obligation  
12       after completion of academic training, or fails to comply  
13       with the terms and conditions of deferment established by  
14       the Administrator, shall be in breach of the contractual  
15       agreement.

16       ~~“(B)(i) In this subparagraph—~~

17               ~~“(I) the term ‘A’ means the amount the United~~  
18       States is entitled to recover;

19               ~~“(H) the term ‘F’ means the sum of the~~  
20       amounts paid to or on behalf of the participant;

21               ~~“(III) the term ‘t’ means the total number of~~  
22       months of the period of obligated service the partici-  
23       pant is required to serve; and

1           “(IV) the term ‘s’ means the number of months  
2           of the period of obligated service served by the par-  
3           ticipant.

4           “(ii) When a recipient breaches the agreement as pro-  
5           vided under subparagraph (A), the United States shall be  
6           entitled to recover damages equal to 3 times the scholar-  
7           ship award, in accordance with the following formula:

$$8 \qquad \qquad \qquad “A=(3F)[(t-s)/t]$$

9           “(C) The damages that the United States is entitled  
10          to recover shall be paid within 1 year after the date of  
11          default.

12          “(3) Beginning 90 days after default, interest shall  
13          accrue on the payments required to be made under this  
14          subsection, at a rate to be determined by regulation estab-  
15          lished by the Administrator.

16          “(e)(1) Any obligation of an individual incurred  
17          under this section for service or payment of damages may  
18          be canceled upon the death of the individual.

19          “(2) The Administrator shall by regulation provide  
20          for the partial or total waiver or suspension of any obliga-  
21          tion of service or payment incurred by an individual under  
22          this section if—

23                 “(A) the compliance by the individual is impos-  
24                 sible or would involve extreme hardship to the indi-  
25                 vidual; or

1           ~~“(B) enforcement of such obligation with re-~~  
 2           ~~spect to any individual would be contrary to the best~~  
 3           ~~interests of the Government.~~

4           ~~“(f) The Administrator may provide a scholarship~~  
 5           ~~under this section if an application for the scholarship is~~  
 6           ~~submitted to the Administrator and the application is in~~  
 7           ~~such form, is made in such manner, and contains such~~  
 8           ~~agreements, assurance, and information as the Adminis-~~  
 9           ~~trator determines to be necessary to carry out this section.~~

10          ~~“(g)(1) There are authorized to be appropriated to~~  
 11          ~~the Administration to carry out this section \$10,000,000~~  
 12          ~~for fiscal year 2004 and \$10,000,000 for each succeeding~~  
 13          ~~fiscal year.~~

14          ~~“(2) Amounts appropriated for a fiscal year for schol-~~  
 15          ~~arships under this section shall remain available for 2 fis-~~  
 16          ~~cal years.~~

17       **~~“§ 9934. Distinguished scholar appointment authority~~**

18          ~~“(a) In this section—~~

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

23                       ~~“(A) requires education and training in the~~  
 24                       ~~principles, concepts, and theories of the occupa-~~  
 25                       ~~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 sections 3304(b) and 3309 through  
 15 3318, candidates directly to General Schedule professional  
 16 positions in the Administration for which public notice has  
 17 been given, if—

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

20 “(A) received, from an accredited institu-  
 21 tion authorized to grant baccalaureate degrees,  
 22 a baccalaureate degree in a field of study for  
 23 which possession of that degree in conjunction  
 24 with academic achievements meets the qualifica-  
 25 tion standards as prescribed by the Office of

1 Personnel Management for the position to  
2 which the individual is being appointed; and

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

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

10 “(A) received, from an accredited institu-  
11 tion authorized to grant graduate degrees, a  
12 graduate degree in a field of study for which  
13 possession of that degree meets the qualifica-  
14 tion standards at this grade level 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 3.5 or higher on a 4.0 scale in grad-  
20 uate coursework in the field of study required  
21 for the position;

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

24 “(A) received, from an accredited institu-  
25 tion 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, 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.

1       ~~“(c) Veterans’ preference procedures shall apply~~  
 2 ~~when selecting candidates under this section. Preference~~  
 3 ~~eligibles who meet the criteria for distinguished scholar~~  
 4 ~~appointments shall be considered ahead of nonpreference~~  
 5 ~~eligibles.~~

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

9       **~~§ 9935. Travel and transportation expenses of cer-~~**  
 10               **~~tain new appointees~~**

11       ~~“(a) In this section, the term ‘new appointee’~~  
 12 ~~means—~~

13               ~~“(1) a person newly appointed or reinstated to~~  
 14 ~~Federal service to the Administration to—~~

15                       ~~“(A) a career or career-conditional ap-~~  
 16 ~~pointment;~~

17                       ~~“(B) a term appointment;~~

18                       ~~“(C) an excepted service appointment that~~  
 19 ~~provides for noncompetitive conversion to a ca-~~  
 20 ~~reer or career-conditional appointment;~~

21                       ~~“(D) a career or limited term Senior Exec-~~  
 22 ~~utive Service appointment;~~

23                       ~~“(E) an appointment made under section~~  
 24 ~~203(e)(2)(A) of the National Aeronautics and~~  
 25 ~~Space Act of 1958 (42 U.S.C. 2473(e)(2)(A));~~

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

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

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

9           “(b) The Administrator may pay the travel, transpor-  
10          tation, and relocation expenses of a new appointee to the  
11          same extent, in the same manner, and subject to the same  
12          conditions as the payment of such expenses under sections  
13          5724, 5724a, 5724b, and 5724e to an employee trans-  
14          ferred in the interests of the United States Government.

15       **“§ 9936. Annual leave enhancements**

16           “(a)(1) In this subsection—

17           “(A) the term ‘newly appointed employee’  
18          means an individual who is first appointed—

19           “(i) regardless of tenure, as an employee of  
20          the Federal Government; or

21           “(ii) as an employee of the Federal Gov-  
22          ernment following a break in service of at least  
23          90 days after that individual’s last period of  
24          Federal employment, other than—

1                   “(I) employment under the Student  
2                   Educational Employment Program admin-  
3                   istered by the Office of Personnel Manage-  
4                   ment;

5                   “(II) employment as a law clerk train-  
6                   ee;

7                   “(III) employment under a short-term  
8                   temporary appointing authority while a  
9                   student during periods of vacation from  
10                  the educational institution at which the  
11                  student is enrolled;

12                  “(IV) employment under a provisional  
13                  appointment if the new appointment is per-  
14                  manent and immediately follows the provi-  
15                  sional appointment; or

16                  “(V) employment under a temporary  
17                  appointment that is neither full-time nor  
18                  the principal employment of the individual;

19                  “(B) the term ‘period of qualified non-Federal  
20                  service’ means any period of service performed by an  
21                  individual that—

22                         “(i) was performed in a position the duties  
23                         of which were directly related to the duties of  
24                         the position in the Administration to which that

1 individual will fill as a newly appointed em-  
 2 ployee; and

3 “(ii) except for this section would not oth-  
 4 erwise be service performed by an employee for  
 5 purposes of section 6303; and

6 “(C) the term ‘directly related to the duties of  
 7 the position’ means duties and responsibilities in the  
 8 same line of work which require similar qualifica-  
 9 tions.

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

14 “(B) A period deemed by the Administrator under  
 15 subparagraph (A) shall continue to apply to the employee  
 16 during—

17 “(i) the period of Federal service in which the  
 18 deeming is made; and

19 “(ii) any subsequent period of Federal service.

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

1       “(B) The accrual rate established under this para-  
2 graph shall continue to apply to the employee during—

3               “(i) the period of Federal service in which such  
4 accrual rate first applies; and

5               “(ii) any subsequent period of Federal service.

6   **“§ 9937. Limited appointments to Senior Executive**  
7               **Service positions**

8       “(a) In this section—

9               “(1) the term ‘career reserved position’ means  
10 a position in the Administration designated under  
11 section 3132(b) which may be filled only by—

12                       “(A) a career appointee; or

13                       “(B) a limited emergency appointee or a  
14 limited term appointee—

15                               “(i) who, immediately before entering  
16 the career reserved position, was serving  
17 under a career or career-conditional ap-  
18 pointment outside the Senior Executive  
19 Service; or

20                               “(ii) whose limited emergency or lim-  
21 ited term appointment is approved in ad-  
22 vance by the Office of Personnel Manage-  
23 ment;

24               “(2) the term ‘limited emergency appointee’ has  
25 the meaning given under section 3132; and



1           ~~“(3) the term ‘limited term appointee’ means~~  
 2           ~~an individual appointed to a Senior Executive Serv-~~  
 3           ~~ice position in the Administration to meet a bona~~  
 4           ~~fide temporary need; as determined by the Adminis-~~  
 5           ~~trator.~~

6           ~~“(b) The number of career reserved positions which~~  
 7           ~~are filled by an appointee as described under subsection~~  
 8           ~~(a)(1)(B) may not exceed 10 percent of the total number~~  
 9           ~~of Senior Executive Service positions allocated to the Ad-~~  
 10          ~~ministration.~~

11          ~~“(c) Notwithstanding sections 3132 and 3394(b)—~~

12           ~~“(1) the Administrator may appoint an indi-~~  
 13           ~~vidual to any Senior Executive Service position in~~  
 14           ~~the Administration as a limited term appointee~~  
 15           ~~under this section for a period of—~~

16           ~~“(A) 4 years or less to a position the du-~~  
 17           ~~ties of which will expire at the end of such~~  
 18           ~~term; or~~

19           ~~“(B) 1 year or less to a position the duties~~  
 20           ~~of which are continuing; and~~

21           ~~“(2) in rare circumstances, the Administrator~~  
 22           ~~may authorize an extension of a limited appointment~~  
 23           ~~under—~~

24           ~~“(A) paragraph (1)(A) for a period not to~~  
 25           ~~exceed 2 years; and~~

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

3           “(d) A limited term appointee who has been ap-  
4           pointed in the Administration from a career or career-con-  
5           ditional appointment outside the Senior Executive Service  
6           shall have reemployment rights in the agency from which  
7           appointed, or in another agency, under requirements and  
8           conditions established by the Office of Personnel Manage-  
9           ment. The Office shall have the authority to direct such  
10          placement in any agency.

11          “(e) Notwithstanding section 3394(b) and section  
12          3395—

13               “(1) a limited term appointee serving under a  
14               term prescribed under this section may be reas-  
15               signed to another Senior Executive Service position  
16               in the Administration, the duties of which will expire  
17               at the end of a term of 4 years or less; and

18               “(2) a limited term appointee serving under a  
19               term prescribed under this section may be reas-  
20               signed to another continuing Senior Executive Serv-  
21               ice position in the Administration, except that the  
22               appointee may not serve in 1 or more positions in  
23               the Administration under such appointment in ex-  
24               cess of 1 year, except that in rare circumstances, the

1 Administrator may approve an extension up to an  
 2 additional 1 year.

3 ~~“(f) A limited term appointee may not serve more~~  
 4 ~~than 7 consecutive years under any combination of limited~~  
 5 ~~appointments.~~

6 ~~“(g) Notwithstanding section 5384, the Adminis-~~  
 7 ~~trator may authorize performance awards to limited term~~  
 8 ~~appointees in the Administration in the same amounts and~~  
 9 ~~in the same manner as career appointees.~~

10 **~~“§ 9938. Superior qualifications pay~~**

11 ~~“(a) In this section the term ‘employee’ means an em-~~  
 12 ~~ployee as defined under section 2105 who is employed by~~  
 13 ~~the Administration.~~

14 ~~“(b) Notwithstanding section 5334, the Adminis-~~  
 15 ~~trator may set the pay of an employee paid under the Gen-~~  
 16 ~~eral Schedule at any step within the pay range for the~~  
 17 ~~grade of the position, based on the superior qualifications~~  
 18 ~~of the employee, or the special need of the Administration.~~

19 ~~“(c) If an exercise of the authority under this section~~  
 20 ~~relates to a current employee selected for another position~~  
 21 ~~within the Administration, a determination shall be made~~  
 22 ~~that the employee’s contribution in the new position will~~  
 23 ~~exceed that in the former position, before setting pay~~  
 24 ~~under this section.~~

1       “(d) Pay as set under this section is basic pay for  
2 such purposes as pay set under section 5334.

3       “(e) If the employee serves for at least 1 year in the  
4 position for which the pay determination under this sec-  
5 tion was made, or a successor position, the pay earned  
6 under such position may be used in succeeding actions to  
7 set pay under chapter 53.

8       “(f) The Administrator may waive the restrictions in  
9 subsection (e), based on criteria established in the plan  
10 required under subsection (g).

11       “(g) Before setting any employee’s pay under this  
12 section, the Administrator shall submit a plan to the Of-  
13 fice of Personnel Management, that includes—

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

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

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

20               “(4) the relationship between the exercise of au-  
21 thority under this section and the use of other pay  
22 incentives; and

23               “(5) a process to evaluate the effectiveness of  
24 this section.”.

25       (b) TECHNICAL AND CONFORMING AMENDMENT.—

1           (1) TABLE OF CHAPTERS.—The table of chap-  
 2           ters for part III of title 5, United States Code, is  
 3           amended by adding at the end the following:

**“99. National Aeronautics and Space Administration ..... 9901”.**

4           (2) COMPENSATION FOR CERTAIN EXCEPTED  
 5           PERSONNEL.—

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

14                   (B) EFFECTIVE DATE.—Notwithstanding  
 15          section 3, the amendment made by this para-  
 16          graph shall take effect on the first day of the  
 17          first pay period beginning on or after the effec-  
 18          tive date of this Act.

19           (3) COMPENSATION CLARIFICATION.—Section  
 20          209 of title 18, United States Code, is amended by  
 21          adding at the end the following:

22          “(g)(1) In this subsection, the term ‘private sector  
 23          entity’ has the meaning given under section 9932(a) of  
 24          title 5.

1       “(2) This section does not prohibit an employee of  
 2 a private sector entity, while assigned to the National Aer-  
 3 onautics and Space Administration under section 9932 of  
 4 title 5, from continuing to receive pay and benefits from  
 5 that entity in accordance with section 9932 of that title.”.

6   **SEC. 3. EFFECTIVE DATE.**

7       This Act shall take effect 180 days after the date of  
 8 enactment of this Act.

9   **SECTION 1. NASA WORKFORCE AUTHORITIES AND PER-**  
 10                   **SONNEL PROVISIONS.**

11       (a) *IN GENERAL.*—Subpart I of part III of title 5,  
 12 *United States Code*, is amended by inserting after chapter  
 13 97, as added by section 841(a)(2) of the *Homeland Security*  
 14 *Act of 2002* (Public Law 107–296; 116 Stat. 2229), the fol-  
 15 *lowing:*

16   **“CHAPTER 98—NATIONAL AERONAUTICS**  
 17                   **AND SPACE ADMINISTRATION**

                  “SUBCHAPTER I—WORKFORCE AUTHORITIES

“Sec.

“9801. *Definitions.*

“9802. *Planning, notification, and reporting requirements.*

“9803. *Workforce authorities.*

“9804. *Recruitment, redesignation, and relocation bonuses.*

“9805. *Retention bonuses.*

“9806. *Term appointments.*

“9807. *Pay authority for critical positions.*

“9808. *Assignments of intergovernmental personnel.*

                  “SUBCHAPTER II—PERSONNEL PROVISIONS

“9831. *Definitions.*

“9832. *Administration and private sector exchange assignments.*

“9833. *Science and technology scholarship program.*

“9834. *Distinguished scholar appointment authority.*

“9835. *Travel and transportation expenses of certain new appointees.*

“9836. *Annual leave enhancements.*

“9837. *Limited appointments to Senior Executive Service positions.*

“9838. *Superior qualifications pay.*

## 1 “SUBCHAPTER I—WORKFORCE AUTHORITIES

### 2 “§9801. *Definitions*

3 “For purposes of this subchapter—

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

6 “(2) the term ‘Administrator’ means the Admin-  
7 istrator of the National Aeronautics and Space Ad-  
8 ministration;

9 “(3) the term ‘critical need’ means a specific and  
10 important requirement of the Administration’s mis-  
11 sion that the Administration is unable to fulfill be-  
12 cause the Administration lacks the appropriate em-  
13 ployees because—

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

15 “(B) employees do not possess the requisite  
16 skills;

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

19 “(5) the term ‘workforce plan’ means the plan re-  
20 quired under section 9802(a);

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

1           “(A) the Committees on Government Re-  
 2           form, Science, and Appropriations of the House  
 3           of Representatives; and

4           “(B) the Committees on Governmental Af-  
 5           fairs, Commerce, Science, and Transportation,  
 6           and Appropriations of the Senate; and

7           “(7) the term ‘redesignation bonus’ means a  
 8           bonus under section 9804 paid to an individual de-  
 9           scribed in subsection (a)(2) thereof.

10   **“§ 9802. Planning, notification, and reporting require-**  
 11       **ments**

12       “(a) Not later than 60 days before exercising any of  
 13       the workforce authorities under this subchapter, the Admin-  
 14       istrator shall submit a written plan to the appropriate com-  
 15       mittees of Congress. A plan under this subchapter may not  
 16       be implemented without the approval of the Office of Per-  
 17       sonnel Management.

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

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

21           “(2)(A) the functions, approximate number, and  
 22           classes or other categories of positions or employees  
 23           that—

24           “(i) address critical needs; and



1           “(ii) would be eligible for each authority  
2           proposed to be exercised under section 9803; and

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

7           “(3)(A) any critical need identified under para-  
8           graph (1) which would not be addressed by the au-  
9           thorities made available under this subchapter; and

10          “(B) the reasons why those needs would not be  
11          so addressed;

12          “(4) the specific criteria to be used in deter-  
13          mining which individuals may receive the benefits de-  
14          scribed under sections 9804 and 9805 (including the  
15          criteria for granting bonuses in the absence of a crit-  
16          ical need), and how the level of those benefits will be  
17          determined;

18          “(5) the safeguards or other measures that will  
19          be applied to ensure that this subchapter is carried  
20          out in a manner consistent with merit system prin-  
21          ciples;

22          “(6) the means by which employees will be af-  
23          forded the notification required under subsections (c)  
24          and (d)(1)(B);

1           “(7) the methods that will be used to determine  
 2           if the authorities exercised under this subchapter have  
 3           successfully addressed each critical need identified  
 4           under paragraph (1); and

5           “(8)(A) the recruitment methods used by the Ad-  
 6           ministration before the enactment of this chapter to  
 7           recruit highly qualified individuals;

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

12                   “(i) nongovernmental recruitment or place-  
 13                   ment agencies; and

14                   “(ii) Internet technologies; and

15          “(9) any reforms to the Administration’s work-  
 16          force management practices recommended by the Co-  
 17          lumbia Accident Investigation Board, the extent to  
 18          which those recommendations will be accepted, and, if  
 19          necessary, the reasons why any recommendations were  
 20          not accepted.

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

1       “(d)(1)(A) *The Administrator may submit any modi-*  
 2 *fications to the workforce plan to the Office of Personnel*  
 3 *Management. Modifications to the workforce plan may not*  
 4 *be implemented without the approval of the Office of Per-*  
 5 *sonnel Management.*

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

10       “(2) *Any reference in this subchapter or any other pro-*  
 11 *vision of law to the workforce plan shall be considered to*  
 12 *include any modification made in accordance with this sub-*  
 13 *section.*

14       “(e) *Before submitting any written plan under sub-*  
 15 *section (a) (or modification under subsection (d)) to the Of-*  
 16 *fice of Personnel Management, the Administrator shall—*

17               “(1) *provide to each employee representative rep-*  
 18 *resenting any employees who might be affected by*  
 19 *such plan (or modification) a copy of the proposed*  
 20 *plan (or modification);*

21               “(2) *give each representative 30 calendar days*  
 22 *(unless extraordinary circumstances require earlier*  
 23 *action) to review and make recommendations with re-*  
 24 *spect to the proposed plan (or modification); and*

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

6           “(f) None of the workforce authorities made available  
 7           under this subchapter may be exercised in a manner incon-  
 8           sistent with the workforce plan.

9           “(g) Whenever the Administration submits its perform-  
 10          ance plan under section 1115 of title 31 to the Office of  
 11          Management and Budget for any year, the Administration  
 12          shall at the same time submit a copy of such plan to the  
 13          appropriate committees of Congress.

14          “(h) Not later than 6 years after date of enactment  
 15          of this subchapter, the Administrator shall submit to the  
 16          appropriate committees of Congress an evaluation and  
 17          analysis of the actions taken by the Administration under  
 18          this subchapter, including—

19               “(1) an evaluation, using the methods described  
 20               in subsection (b)(7), of whether the authorities exer-  
 21               cised under this subchapter successfully addressed  
 22               each critical need identified under subsection (b)(1);

23               “(2) to the extent that they did not, an expla-  
 24               nation of the reasons why any critical need (apart

1     *from the ones under subsection (b)(3)) was not suc-*  
 2     *cessfully addressed; and*

3             *“(3) recommendations for how the Administra-*  
 4     *tion could address any remaining critical need and*  
 5     *could prevent those that have been addressed from re-*  
 6     *curring.*

7     **“§9803. Workforce authorities**

8             *“(a) The workforce authorities under this subchapter*  
 9     *are the following:*

10            *“(1) The authority to pay recruitment, redesign-*  
 11     *ation, and relocation bonuses under section 9804.*

12            *“(2) The authority to pay retention bonuses*  
 13     *under section 9805.*

14            *“(3) The authority to make term appointments*  
 15     *and to take related personnel actions under section*  
 16     *9806.*

17            *“(4) The authority to fix rates of basic pay for*  
 18     *critical positions under section 9807.*

19            *“(5) The authority to extend intergovernmental*  
 20     *personnel act assignments under section 9808.*

21            *“(6) The authority to apply subchapter II of*  
 22     *chapter 35 in accordance with section 9810.*

23            *“(b) No authority under this subchapter may be exer-*  
 24     *cised with respect to any officer who is appointed by the*  
 25     *President, by and with the advice and consent of the Senate.*

1       “(c) *Unless specifically stated otherwise, all authorities*  
 2 *provided under this subchapter are subject to section 5307.*

3       **“§9804. Recruitment, redesignation, and relocation**  
 4               **bonuses**

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

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

13              “(2) *the individual—*

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

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

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

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

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

6           “(2) 100 percent of the employee’s annual rate of  
7       basic pay (including comparability payments under  
8       sections 5304 and 5304a) as of the beginning of the  
9       service period.

10       “(c) If the position is not described as addressing a  
11   critical need in the workforce plan under section  
12   9802(b)(2)(A), the amount of a bonus may not exceed—

13           “(1) 25 percent of the employee’s annual rate of  
14       basic pay (including comparability payments under  
15       sections 5304 and 5304a) as of the beginning of the  
16       service period multiplied by the service period speci-  
17       fied under subsection (d)(1)(B)(i); or

18           “(2) 100 percent of the employee’s annual rate of  
19       basic pay (including comparability payments under  
20       sections 5304 and 5304a) as of the beginning of the  
21       service period.

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

1       “(B) *At a minimum, the service agreement shall in-*  
2 *clude—*

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 that amount; and*

10              “(iv) *the conditions under which the agreement*  
11 *may be terminated before the agreed-upon service pe-*  
12 *riod has been completed, and the effect of the termi-*  
13 *nation.*

14       “(2) *For purposes of determinations under subsections*  
15 *(b)(1) and (c)(1), the employee’s service period shall be ex-*  
16 *pressed as the number equal to the full years and twelfth*  
17 *parts thereof, rounding the fractional part of a month to*  
18 *the nearest twelfth part of a year. The service period may*  
19 *not be less than 6 months and may not exceed 4 years.*

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

22       “(e) *Before paying a bonus under this section, the Ad-*  
23 *ministration shall establish a plan for paying recruitment,*  
24 *redesignation, and relocation bonuses, subject to approval*  
25 *by the Office of Personnel Management.*



1       “(f) No more than 25 percent of the total amount in  
 2 bonuses awarded under subsection (a) in any year may be  
 3 awarded to supervisors or management officials (as such  
 4 terms are defined in section 7103(a) (10) and (11), respec-  
 5 tively).

6       **“§9805. Retention bonuses**

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

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

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

17       “(b) If the position is described as addressing a critical  
 18 need in the workforce plan under section 9802(b)(2)(A), the  
 19 amount of a bonus may not exceed 50 percent of the employ-  
 20 ee’s annual rate of basic pay (including comparability pay-  
 21 ments under sections 5304 and 5304a).

22       “(c) If the position is not described as addressing a  
 23 critical need in the workforce plan under section  
 24 9802(b)(2)(A), the amount of a bonus may not exceed 25  
 25 percent of the employee’s annual rate of basic pay (includ-

1 *ing comparability payments under sections 5304 and*  
 2 *5304a).*

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

6       “(B) *At a minimum, the service agreement shall in-*  
 7 *clude—*

8               “(i) *the required service period;*

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

13               “(iii) *the amount of the bonus and the basis for*  
 14 *calculating the amount; and*

15               “(iv) *the conditions under which the agreement*  
 16 *may be terminated before the agreed-upon service pe-*  
 17 *riod has been completed, and the effect of the termi-*  
 18 *nation.*

19       “(2) *The employee’s service period shall be expressed*  
 20 *as the number equal to the full years and twelfth parts*  
 21 *thereof, rounding the fractional part of a month to the near-*  
 22 *est twelfth part of a year. The service period may not be*  
 23 *less than 6 months and may not exceed 4 years.*

24       “(3) *Notwithstanding paragraph (1), a service agree-*  
 25 *ment is not required if the Administration pays a bonus*

1 *in biweekly installments and sets the installment payment*  
 2 *at the full bonus percentage rate established for the em-*  
 3 *ployee, with no portion of the bonus deferred. In this case,*  
 4 *the Administration shall inform the employee in writing*  
 5 *of any decision to change the retention bonus payments. The*  
 6 *employee shall continue to accrue entitlement to the reten-*  
 7 *tion bonus through the end of the pay period in which such*  
 8 *written notice is provided.*

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

11       “(f) An employee is not entitled to a retention bonus  
 12 *under this section during a service period previously estab-*  
 13 *lished for that employee under section 5753 or under section*  
 14 *9804.*

15       “(g) No more than 25 percent of the total amount in  
 16 *bonuses awarded under subsection (a) in any year may be*  
 17 *awarded to supervisors or management officials (as such*  
 18 *terms are defined in section 7103(a) (10) and (11), respec-*  
 19 *tively).*

20 **“§9806. Term appointments**

21       “(a) The Administrator may authorize term appoint-  
 22 *ments within the Administration under subchapter I of*  
 23 *chapter 33, for a period of not less than 1 year and not*  
 24 *more than 6 years.*

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

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

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

15              “(3) the employee has completed at least 2 years  
16 of current continuous service under a term appoint-  
17 ment in the competitive service;

18              “(4) the employee’s performance under such term  
19 appointment was at least fully successful or equiva-  
20 lent; and

21              “(5) the position to which such employee is being  
22 converted under this section is in the same occupa-  
23 tional series, is in the same geographic location, and  
24 provides no greater promotion potential than the term

1        *position for which the competitive examination was*  
 2        *conducted.*

3        *“(c) 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 com-*  
 8        *petitive service within the Administration through internal*  
 9        *competitive promotion procedures if the conditions under*  
 10       *paragraphs (1) through (4) of subsection (b) are met.*

11       *“(d) An employee converted under this section becomes*  
 12       *a career-conditional employee, unless the employee has oth-*  
 13       *erwise completed the service requirements for career tenure.*

14       *“(e) An employee converted to career or career-condi-*  
 15       *tional employment under this section acquires competitive*  
 16       *status upon conversion.*

17       **“§9807. Pay authority for critical positions**

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

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

21                *“(2) a position under the Executive Schedule*  
 22                *under sections 5312 through 5317;*

23                *“(3) a position established under section 3104; or*

24                *“(4) a senior-level position to which section*  
 25                *5376(a)(1) applies.*

1       “(b) *Authority under this section—*

2               “(1) *may be exercised only with respect to a po-*  
3       *sition that—*

4               “(A) *is described as addressing a critical*  
5       *need in the workforce plan under section*  
6       *9802(b)(2)(A); and*

7               “(B) *requires expertise of an extremely high*  
8       *level in a scientific, technical, professional, or*  
9       *administrative field;*

10              “(2) *may be exercised only to the extent nec-*  
11       *essary to recruit or retain an individual exceptionally*  
12       *well qualified for the position; and*

13              “(3) *may be exercised only in retaining employ-*  
14       *ees of the Administration or in appointing individ-*  
15       *uals who were not employees of another Federal agen-*  
16       *cy as defined under section 5102(a)(1).*

17              “(c)(1) *Notwithstanding section 5377, the Adminis-*  
18       *trator may fix the rate of basic pay for a position in the*  
19       *Administration in accordance with this section. The Ad-*  
20       *ministrator may not delegate this authority.*

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

23              “(d)(1) *The rate of basic pay fixed under this section*  
24       *may not be less than the rate of basic pay (including any*  
25       *comparability payments) which would otherwise be payable*

1 *for the position involved if this section had never been en-*  
2 *acted.*

3       “(2) *The annual rate of basic pay fixed under this sec-*  
4 *tion may not exceed the per annum rate of salary payable*  
5 *under section 104 of title 3.*

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

18 **“§9808. Assignments of intergovernmental personnel**

19       *“For purposes of applying the third sentence of section*  
20 *3372(a) (relating to the authority of the head of a Federal*  
21 *agency to extend the period of an employee’s assignment*  
22 *to or from a State or local government, institution of higher*  
23 *education, or other organization), the Administrator may,*  
24 *with the concurrence of the employee and the government*  
25 *or organization concerned, take any action which would be*

1 *allowable if such sentence had been amended by striking*  
 2 *‘two’ and inserting ‘four’.*

3 *“SUBCHAPTER II—PERSONNEL PROVISIONS*

4 ***“§9831. Definitions***

5 *“For purposes of this subchapter, the terms ‘Adminis-*  
 6 *tration’ and ‘Administrator’ have the meanings set forth*  
 7 *in section 9801.*

8 ***“§9832. Administration and private sector exchange***  
 9 ***assignments***

10 *“(a) In this section—*

11 *“(1) the term ‘private sector employee’ means an*  
 12 *employee of a private sector entity; and*

13 *“(2) the term ‘private sector entity’ means an or-*  
 14 *ganization, company, corporation, or other business*  
 15 *concern, or a foreign government or agency of a for-*  
 16 *ign government, that is not a State, local govern-*  
 17 *ment, Federal agency, or other organization as de-*  
 18 *finied under section 3371 (1), (2), (3), and (4), respec-*  
 19 *tively.*

20 *“(b)(1) On request from or with the concurrence of a*  
 21 *private sector entity, and with the consent of the employee*  
 22 *concerned, the Administrator may arrange for the assign-*  
 23 *ment of—*



1           “(A) an employee of the Administration serving  
2           in a scientific or technical position as designated by  
3           the Administrator, to a private sector entity; and

4           “(B) an employee of a private sector entity serv-  
5           ing in a scientific or technical position to the Admin-  
6           istration,

7           for work of mutual concern to the Administration and the  
8           private sector entity that the Administrator determines will  
9           be beneficial to both.

10          “(2) The period of an assignment under this section  
11          may not exceed 2 years. However, the Administrator may  
12          extend the period of assignment for not more than 2 addi-  
13          tional years.

14          “(3) An employee of the Administration may be as-  
15          signed under this section only if the employee agrees, as  
16          a condition of accepting an assignment, to serve in the Ad-  
17          ministration upon the completion of the assignment for a  
18          period equal to the length of the assignment. The Adminis-  
19          trator may waive the requirement under this paragraph,  
20          with the approval of the Office of Management and Budget,  
21          with respect to any employee if the Administrator deter-  
22          mines it to be in the best interests of the United States to  
23          do so.

24          “(4) Each agreement required under paragraph (3)  
25          shall provide that if the employee fails to carry out the

1 agreement (except in the case of a waiver made under para-  
 2 graph (3)), the employee shall be liable to the United States  
 3 for payment of all expenses (excluding salary) of the assign-  
 4 ment. The amount due shall be treated as a debt due the  
 5 United States.

6 “(c)(1) An Administration employee assigned to a pri-  
 7 vate sector entity under this section is deemed, during the  
 8 assignment, to be on detail to a work assignment (as a  
 9 detailee to the entity).

10 “(2) An Administration employee assigned under this  
 11 section on detail remains an employee of the Administra-  
 12 tion. Chapter 171 of title 28 and any other Federal tort  
 13 liability statute apply to the Administration employee so  
 14 assigned, and all defenses available to the United States  
 15 under these laws or applicable provisions of State law shall  
 16 remain in effect. The supervision of the duties of an Admin-  
 17 istration employee assigned to the private sector entity  
 18 through detail may be governed by agreement between the  
 19 Administration and the private sector entity concerned.

20 “(3) The assignment of an Administration employee  
 21 on detail to a private sector entity under this section may  
 22 be made with or without reimbursement by the private sec-  
 23 tor entity for the travel and transportation expenses to or  
 24 from the place of assignment, for the pay, or supplemental  
 25 pay, or a part thereof, of the employee, or for the contribu-

1 *tion of the Administration to the employee's benefit systems*  
 2 *during the assignment. Any reimbursements shall be cred-*  
 3 *ited to the appropriation of the Administration used for*  
 4 *paying the travel and transportation expenses, pay, or ben-*  
 5 *efits, and not paid to the employee.*

6       “(d)(1) *An employee of a private sector entity who is*  
 7 *assigned to the Administration under an arrangement*  
 8 *under this section shall be deemed on detail to the Adminis-*  
 9 *tration.*

10       “(2) *During the period of assignment, a private sector*  
 11 *employee on detail to the Administration—*

12               “(A) *is not entitled to pay from the Administra-*  
 13 *tion, except to the extent that the pay received from*  
 14 *the private sector entity is less than the appropriate*  
 15 *rate of pay which the duties would warrant under the*  
 16 *pay provisions of this title or other applicable author-*  
 17 *ity;*

18               “(B) *is deemed an employee of the Administra-*  
 19 *tion for the purpose of chapter 73 of this title, the*  
 20 *Ethics in Government Act of 1978, section 27 of the*  
 21 *Office of Federal Procurement Policy Act, sections*  
 22 *201, 203, 205, 207, 208, 209, 602, 603, 606, 607, 610,*  
 23 *643, 654, 1905, and 1913 of title 18, sections 1343,*  
 24 *1344, and 1349(b) of title 31, chapter 171 of title 28,*  
 25 *and any other Federal tort liability statute, and any*

1        *other provision of Federal criminal law, unless other-*  
 2        *wise specifically exempted;*

3            *“(C) notwithstanding subparagraph (B), is also*  
 4        *deemed to be an employee of his or her private sector*  
 5        *employer for purposes of section 208 of title 18; and*

6            *“(D) is subject to such regulations as the Admin-*  
 7        *istrator may prescribe.*

8            *“(3) The supervision of the duties of an employee as-*  
 9        *signed under this subsection may be governed by agreement*  
 10       *between the Administration and the private sector entity.*

11          *“(4) A detail of a private sector employee to the Ad-*  
 12       *ministration may be made with or without reimbursement*  
 13       *by the Administration for the pay, or a part thereof, of the*  
 14       *employee during the period of assignment, or for the con-*  
 15       *tribution of the private sector entity, or a part thereof, to*  
 16       *employee benefit systems.*

17          *“(5)(A) A private sector employee on detail to the Ad-*  
 18       *ministration under this section who suffers disability or*  
 19       *dies as a result of personal injury sustained while in the*  
 20       *performance of duties during the assignment shall be treat-*  
 21       *ed, for the purpose of subchapter I of chapter 81 as an em-*  
 22       *ployee as defined under section 8101 who had sustained the*  
 23       *injury in the performance of duties.*

24          *“(B) When an employee (or the employee’s dependents*  
 25       *in case of death) entitled by reason of injury or death to*

1 *benefits under subchapter I of chapter 81 is also entitled*  
 2 *to benefits from the employee's private sector employer for*  
 3 *the same injury or death, the employee (or the employee's*  
 4 *dependents in case of death) shall elect which benefits the*  
 5 *employee will receive. The election shall be made within 1*  
 6 *year after the injury or death, or such further time as the*  
 7 *Secretary of Labor may allow for reasonable cause shown.*  
 8 *When made, the election is irrevocable.*

9       “(C) *Except as provided in subparagraphs (A) and*  
 10 *(B), and notwithstanding any other law, the United States,*  
 11 *any instrumentality of the United States, or an employee,*  
 12 *agent, or assign of the United States shall not be liable to—*

13               “(i) *a private sector employee assigned to the*  
 14 *Administration under this section;*

15               “(ii) *such employee's legal representative, spouse,*  
 16 *dependents, survivors, or next of kin; or*

17               “(iii) *any other person, including any third*  
 18 *party as to whom such employee, or that employee's*  
 19 *legal representative, spouse, dependents, survivors, or*  
 20 *next of kin, has a cause of action arising out of an*  
 21 *injury or death sustained in the performance of duty*  
 22 *pursuant to an assignment under this section, other-*  
 23 *wise entitled to recover damages from the United*  
 24 *States, any instrumentality of the United States, or*  
 25 *any employee, agency, or assign of the United States,*

1 *with respect to any injury or death suffered by a private*  
 2 *sector employee sustained in the performance of duties pur-*  
 3 *suant to an assignment under this section.*

4 “(e)(1) Appropriations of the Administration are  
 5 available to pay, or reimburse, an Administration or pri-  
 6 vate sector employee in accordance with—

7 “(A) subchapter I of chapter 57 for the expenses  
 8 of—

9 “(i) travel, including a per diem allowance,  
 10 to and from the assignment location;

11 “(ii) a per diem allowance at the assign-  
 12 ment location during the period of the assign-  
 13 ment; and

14 “(iii) travel, including a per diem allow-  
 15 ance, while traveling on official business away  
 16 from the employee’s designated post of duty dur-  
 17 ing the assignment when the Administrator con-  
 18 siders the travel to be in the interest of the  
 19 United States;

20 “(B) section 5724 for the expenses of transpor-  
 21 tation of the employee’s immediate family, household  
 22 goods, and personal effects to and from the assign-  
 23 ment location;

1           “(C) section 5724a(a) for the expenses of per  
2       diem allowances for the immediate family of the em-  
3       ployee to and from the assignment location;

4           “(D) section 5724a(c) for subsistence expenses of  
5       the employee and immediate family while occupying  
6       temporary quarters at the assignment location and on  
7       return to the employee’s former post of duty;

8           “(E) section 5724a(g) to be used by the employee  
9       for miscellaneous expenses related to change of station  
10      where movement or storage of household goods is in-  
11      volved; and

12          “(F) section 5726(c) for the expenses of non-  
13      temporary storage of household goods and personal ef-  
14      fects in connection with assignment at an isolated lo-  
15      cation.

16          “(2) Expenses specified in paragraph (1), other than  
17      those in paragraph (1)(A)(iii), may not be allowed in con-  
18      nection with the assignment of an Administration or pri-  
19      vate sector employee under this section, unless and until  
20      the employee agrees in writing to complete the entire period  
21      of his assignment or 1 year, whichever is shorter, unless  
22      separated or reassigned for reasons beyond his control that  
23      are acceptable to the Administrator. If the employee violates  
24      the agreement, the money spent by the United States for  
25      these expenses is recoverable from the employee as a debt

1 *due the United States. The Administrator may waive in*  
 2 *whole or in part a right of recovery under this paragraph*  
 3 *with respect to a private sector employee on assignment*  
 4 *with the Administration or an Administration employee on*  
 5 *assignment with a private sector entity.*

6       “(3) Appropriations of the Administration are avail-  
 7 able to pay expenses under section 5742 with respect to an  
 8 Administration or private sector employee assigned under  
 9 this authority.

10       “(f) A private sector entity may not charge the Federal  
 11 Government, as direct or indirect costs under a Federal con-  
 12 tract, the costs of pay or benefits paid by the entity to an  
 13 employee assigned to the Administration under this section  
 14 for the period of the assignment.

15 **“§9833. Science and technology scholarship program**

16       “(a)(1) The Administrator shall establish a National  
 17 Aeronautics and Space Administration Science and Tech-  
 18 nology Scholarship Program to award scholarships to indi-  
 19 viduals that is designed to recruit and prepare students for  
 20 careers in the Administration.

21       “(2) Individuals shall be selected to receive scholar-  
 22 ships under this section through a competitive process pri-  
 23 marily on the basis of academic merit, with consideration  
 24 given to financial need and the goal of promoting the par-



1 *ticipation of individuals identified in section 33 or 34 of*  
2 *the Science and Engineering Equal Opportunities Act.*

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

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

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

16               “(2) *be a United States citizen; and*

17               “(3) *at the time of the initial scholarship award,*  
18 *not be an employee (as defined in section 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 subsection*  
7 *(c), a proposed academic program leading to a degree in*  
8 *a program or field of study on the list made available under*  
9 *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 sec-*  
14 *tion for an academic year shall be determined under regula-*  
15 *tions issued by the Administrator, but shall in no case ex-*  
16 *ceed the cost of attendance.*

17       “(4) *A scholarship provided under this section may be*  
18 *expended for tuition, fees, and other authorized expenses as*  
19 *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 Administra-*  
3 *tion is, except as provided in subsection (h)(2), 12 months*  
4 *for each academic year for which a scholarship under this*  
5 *section is provided.*

6       “(2)(A) *Except as provided in subparagraph (B), obli-*  
7 *gated service under paragraph (1) shall begin not later than*  
8 *60 days after the individual obtains the educational degree*  
9 *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 defer-*  
13 *ral is appropriate. The Administrator shall prescribe the*  
14 *terms and conditions under which a service obligation may*  
15 *be deferred through regulation.*

16       “(g)(1) *Scholarship recipients who fail to maintain a*  
17 *high level of academic standing, as defined by the Adminis-*  
18 *trator by regulation, who are dismissed from their edu-*  
19 *cational institutions for disciplinary reasons, or who volun-*  
20 *tarily terminate academic training before graduation from*  
21 *the educational program for which the scholarship was*  
22 *awarded, shall be in breach of their contractual agreement*  
23 *and, in lieu of any service obligation arising under such*  
24 *agreement, shall be liable to the United States for repay-*  
25 *ment within 1 year after the date of default of all scholar-*

1 ship funds paid to them and to the institution of higher  
 2 education on their behalf under the agreement, except as  
 3 provided in subsection (h)(2). The repayment period may  
 4 be extended by the Administrator when determined to be  
 5 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 their  
 12 agreements for the reasons stated in the preceding sentence,  
 13 the recipient shall be liable to the United States for an  
 14 amount equal to—

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

17 “(B) the interest on the amounts of such awards  
 18 which would be payable if at the time the awards  
 19 were received they were loans bearing interest at the  
 20 maximum legal prevailing rate, as determined by the  
 21 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 thereunder)

1 *for service or payment shall be canceled upon the death of*  
 2 *the individual.*

3       “(2) *The Administrator shall by regulation provide for*  
 4 *the partial or total waiver or suspension of any obligation*  
 5 *of service or payment incurred by an individual under the*  
 6 *Program (or a contractual agreement thereunder) whenever*  
 7 *compliance by the individual is impossible or would involve*  
 8 *extreme hardship to the individual, or if enforcement of*  
 9 *such obligation with respect to the individual would be con-*  
 10 *trary to the best interests of the Government.*

11       “(i) *For purposes of this section—*

12               “(1) *the term ‘cost of attendance’ has the mean-*  
 13 *ing given that term in section 472 of the Higher Edu-*  
 14 *cation Act of 1965;*

15               “(2) *the term ‘institution of higher education’*  
 16 *has the meaning given that term in section 101(a) of*  
 17 *the Higher Education Act of 1965; and*

18               “(3) *the term ‘Program’ means the National Aer-*  
 19 *onautics 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 fiscal*  
 24 *year.*

1       “(2) Amounts appropriated under this section shall re-  
2   main available for 2 fiscal years.

3   **“§ 9834. Distinguished scholar appointment authority**

4       “(a) In this section—

5               “(1) the term ‘professional position’ means a po-  
6   sition that is classified to an occupational series iden-  
7   tified by the Office of Personnel Management as a po-  
8   sition 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 na-  
21   ture, 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 sections 3304(b) and 3309 through 3318,

1 *candidates directly to General Schedule professional posi-*  
 2 *tions in the Administration for which public notice has been*  
 3 *given, if—*

4           “(1) *with respect to a position at the GS–7 level,*  
 5       *the individual—*

6           “(A) *received, from an accredited institu-*  
 7       *tion authorized to grant baccalaureate degrees, a*  
 8       *baccalaureate degree in a field of study for which*  
 9       *possession of that degree in conjunction with*  
 10       *academic achievements meets the qualification*  
 11       *standards as prescribed by the Office of Per-*  
 12       *sonnel Management for the position to which the*  
 13       *individual is being appointed; and*

14           “(B) *achieved a cumulative grade point av-*  
 15       *erage of 3.0 or higher on a 4.0 scale and a grade*  
 16       *point average of 3.5 or higher for courses in the*  
 17       *field of study required to qualify for the position;*

18           “(2) *with respect to a position at the GS–9 level,*  
 19       *the individual—*

20           “(A) *received, from an accredited institu-*  
 21       *tion authorized to grant graduate degrees, a*  
 22       *graduate degree in a field of study for which pos-*  
 23       *session of that degree meets the qualification*  
 24       *standards at this grade level as prescribed by the*

1        *Office of Personnel Management for the position*  
 2        *to which the individual is being appointed; and*

3                *“(B) achieved a cumulative grade point av-*  
 4        *erage of 3.5 or higher on a 4.0 scale in graduate*  
 5        *coursework in the field of study required for the*  
 6        *position;*

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

9                *“(A) received, from an accredited institu-*  
 10        *tion authorized to grant graduate degrees, a*  
 11        *graduate degree in a field of study for which pos-*  
 12        *session of that degree meets the qualification*  
 13        *standards at this grade level as prescribed by the*  
 14        *Office of Personnel Management for the position*  
 15        *to which the individual is being appointed; and*

16                *“(B) achieved a cumulative grade point av-*  
 17        *erage of 3.5 or higher on a 4.0 scale in graduate*  
 18        *coursework in the field of study required for the*  
 19        *position; or*

20                *“(4) with respect to a research position at the*  
 21        *GS-12 level, the individual—*

22                *“(A) received, from an accredited institu-*  
 23        *tion authorized to grant graduate degrees, a*  
 24        *graduate degree in a field of study for which pos-*  
 25        *session of that degree meets the qualification*



1           standards at this grade level as prescribed by the  
 2           Office of Personnel Management for the position  
 3           to which the individual is being appointed; and

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

8           “(c) Veterans’ preference procedures shall apply when  
 9           selecting candidates under this section. Preference eligibles  
 10          who meet the criteria for distinguished scholar appoint-  
 11          ments shall be considered ahead of nonpreference eligibles.

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

15       **“§9835. Travel and transportation expenses of certain**  
 16               **new appointees**

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

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

20                   “(A) a career or career-conditional appoint-  
 21          ment;

22                   “(B) a term appointment;

23                   “(C) an excepted service appointment that  
 24          provides for noncompetitive conversion to a ca-  
 25          reer or career-conditional appointment;

1                   “(D) a career or limited term Senior Execu-  
2                   tive Service appointment;

3                   “(E) an appointment made under section  
4                   203(c)(2)(A) of the National Aeronautics and  
5                   Space Act of 1958 (42 U.S.C. 2473(c)(2)(A));

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

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

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

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

20       **“§ 9836. Annual leave enhancements**

21                  “(a)(1) In this section—

22                       “(A) the term ‘newly appointed employee’ means  
23                       an individual who is first appointed—

24                               “(i) regardless of tenure, as an employee of  
25                               the Federal Government; or

1           “(ii) as an employee of the Federal Govern-  
 2           ment following a break in service of at least 90  
 3           days after that individual’s last period of Fed-  
 4           eral employment, other than—

5                   “(I) employment under the Student  
 6           Educational Employment Program admin-  
 7           istered by the Office of Personnel Manage-  
 8           ment;

9                   “(II) employment as a law clerk train-  
 10          ee;

11                  “(III) employment under a short-term  
 12          temporary appointing authority while a  
 13          student during periods of vacation from the  
 14          educational institution at which the student  
 15          is enrolled;

16                  “(IV) employment under a provisional  
 17          appointment if the new appointment is per-  
 18          manent and immediately follows the provi-  
 19          sional appointment; or

20                  “(V) employment under a temporary  
 21          appointment that is neither full-time nor  
 22          the principal employment of the individual;

23           “(B) the term ‘period of qualified non-Federal  
 24          service’ means any period of service performed by an  
 25          individual that—

1           “(i) was performed in a position the duties  
 2           of which were directly related to the duties of the  
 3           position in the Administration to which that in-  
 4           dividual will fill as a newly appointed employee;  
 5           and

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

9           “(C) the term ‘directly related to the duties of the  
 10          position’ means duties and responsibilities in the  
 11          same line of work which require similar qualifica-  
 12          tions.

13          “(b)(1) For purposes of section 6303, the Adminis-  
 14          trator may deem a period of qualified non-Federal service  
 15          performed by a newly appointed employee to be a period  
 16          of service of equal length performed as an employee.

17          “(2) A period deemed by the Administrator under  
 18          paragraph (1) shall continue to apply to the employee dur-  
 19          ing—

20                 “(A) the period of Federal service in which the  
 21                 deeming is made; and

22                 “(B) any subsequent period of Federal service.

23          “(c)(1) Notwithstanding section 6303(a), the annual  
 24          leave accrual rate for an employee of the Administration  
 25          in a position paid under section 5376 or 5383, or for an

1 *employee in an equivalent category whose rate of basic pay*  
 2 *is greater than the rate payable at GS-15, step 10, shall*  
 3 *be 1 day for each full biweekly pay period.*

4 “(2) *The accrual rate established under this paragraph*  
 5 *shall continue to apply to the employee during—*

6 “(A) *the period of Federal service in which such*  
 7 *accrual rate first applies; and*

8 “(B) *any subsequent period of Federal service.*

9 **“§9837. Limited appointments to Senior Executive**  
 10 **Service positions**

11 “(a) *In this section—*

12 “(1) *the term ‘career reserved position’ means a*  
 13 *position in the Administration designated under sec-*  
 14 *tion 3132(b) which may be filled only by—*

15 “(A) *a career appointee; or*

16 “(B) *a limited emergency appointee or a*  
 17 *limited term appointee—*

18 “(i) *who, immediately before entering*  
 19 *the career reserved position, was serving*  
 20 *under a career or career-conditional ap-*  
 21 *pointment outside the Senior Executive*  
 22 *Service; or*

23 “(ii) *whose limited emergency or lim-*  
 24 *ited term appointment is approved in ad-*

1                   vance by the Office of Personnel Manage-  
2                   ment;

3                   “(2) the term ‘limited emergency appointee’ has  
4                   the meaning given under section 3132; and

5                   “(3) the term ‘limited term appointee’ means an  
6                   individual appointed to a Senior Executive Service  
7                   position in the Administration to meet a bona fide  
8                   temporary need, as determined by the Administrator.

9                   “(b) The number of career reserved positions which are  
10                  filled by an appointee as described under subsection  
11                  (a)(1)(B) may not exceed 10 percent of the total number  
12                  of Senior Executive Service positions allocated to the Ad-  
13                  ministration.

14                  “(c) Notwithstanding sections 3132 and 3394(b)—

15                  “(1) the Administrator may appoint an indi-  
16                  vidual to any Senior Executive Service position in  
17                  the Administration as a limited term appointee under  
18                  this section for a period of—

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

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

23                  “(2) in rare circumstances, the Administrator  
24                  may authorize an extension of a limited appointment  
25                  under—

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

3                   “(B) paragraph (1)(B) for a period not to  
4                   exceed 1 year.

5           “(d) A limited term appointee who has been appointed  
6 in the Administration from a career or career-conditional  
7 appointment outside the Senior Executive Service shall  
8 have reemployment rights in the agency from which ap-  
9 pointed, or in another agency, under requirements and con-  
10 ditions established by the Office of Personnel Management.  
11 The Office shall have the authority to direct such placement  
12 in any agency.

13           “(e) Notwithstanding section 3394(b) and section  
14 3395—

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

20                   “(2) a limited term appointee serving under a  
21 term prescribed under this section may be reassigned  
22 to another continuing Senior Executive Service posi-  
23 tion in the Administration, except that the appointee  
24 may not serve in 1 or more positions in the Adminis-  
25 tration under such appointment in excess of 1 year,

1       *except that in rare circumstances, the Administrator*  
 2       *may approve an extension up to an additional 1*  
 3       *year.*

4       “(f) *A limited term appointee may not serve more than*  
 5       *7 consecutive years under any combination of limited ap-*  
 6       *pointments.*

7       “(g) *Notwithstanding section 5384, the Administrator*  
 8       *may authorize performance awards to limited term ap-*  
 9       *pointees in the Administration in the same amounts and*  
 10       *in the same manner as career appointees.*

11       **“§9838. Superior qualifications pay**

12       “(a) *In this section the term ‘employee’ means an em-*  
 13       *ployee as defined under section 2105 who is employed by*  
 14       *the Administration.*

15       “(b) *Notwithstanding section 5334, the Administrator*  
 16       *may set the pay of an employee paid under the General*  
 17       *Schedule at any step within the pay range for the grade*  
 18       *of the position, based on the superior qualifications of the*  
 19       *employee, or the special need of the Administration.*

20       “(c) *If an exercise of the authority under this section*  
 21       *relates to a current employee selected for another position*  
 22       *within the Administration, a determination shall be made*  
 23       *that the employee’s contribution in the new position will*  
 24       *exceed that in the former position, before setting pay under*  
 25       *this section.*



1       “(d) Pay as set under this section is basic pay for such  
2 purposes as pay set under section 5334.

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

8       “(f) The Administrator may waive the restrictions in  
9 subsection (e), based on criteria established in the plan re-  
10 quired under subsection (g).

11       “(g) Before setting any employee’s pay under this sec-  
12 tion, the Administrator shall submit a plan to the Office  
13 of Personnel Management, that includes—

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

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

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

20               “(4) the relationship between the exercise of au-  
21 thority under this section and the use of other pay in-  
22 centives; and

23               “(5) a process to evaluate the effectiveness of this  
24 section.”.

25       (b) *TECHNICAL AND CONFORMING AMENDMENTS.*—

1           (1) *TABLE OF CHAPTERS.*—*The table of chapters*  
 2           *for subchapter I of part III of title 5, United States*  
 3           *Code, is amended by adding after the item relating to*  
 4           *chapter 97 the following:*

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

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

13          (3) *COMPENSATION CLARIFICATION.*—*Section*  
 14          *209 of title 18, United States Code, as amended by*  
 15          *section 209(g)(2) of the E-Government Act of 2002*  
 16          *(Public Law 107–347; 116 Stat. 2932), is amended*  
 17          *by adding at the end the following:*

18          *“(h) This section does not prohibit an employee of a*  
 19          *private sector organization, while assigned to the National*  
 20          *Aeronautics and Space Administration under section 9832*  
 21          *of title 5, from continuing to receive pay and benefits from*  
 22          *that organization in accordance with section 9832 of that*  
 23          *title.”.*

24          (4) *CONTINUED TSP ELIGIBILITY.*—*Section*  
 25          *125(c)(1) of Public Law 100–238 (5 U.S.C. 8432*

note), as amended by section 209(g)(3) of the E-Government Act of 2002 (Public Law 107–347; 116 Stat. 2932), is amended—

(A) in subparagraph (C), by striking “or” at the end;

(B) in subparagraph (D), by striking “and” at the end and inserting “or”; and

(C) by adding at the end the following:

“(E) an individual assigned from the National Aeronautics and Space Administration to a private sector organization under section 9832 of title 5, United States Code; and”.

(5) *ETHICS PROVISIONS.*—

(A) *ONE-YEAR RESTRICTION ON CERTAIN COMMUNICATIONS.*—Section 207(c)(2)(A)(v) of title 18, United States Code, is amended by inserting “or section 9832” after “chapter 37”.

(B) *DISCLOSURE OF CONFIDENTIAL INFORMATION.*—Section 1905 of title 18, United States Code, is amended by inserting “or section 9832” after “chapter 37”.

(6) *CONTRACT ADVICE.*—Section 207(l) of title 18, United States Code, is amended by inserting “or section 9832” after “chapter 37”.

- 1           (7) *AMENDMENTS TO TITLE 5, UNITED STATES*  
2       *CODE.—Title 5, United States Code, is amended—*  
3           *(A) in section 3111(d), by inserting “or sec-*  
4       *tion 9832” after “chapter 37”; and*  
5           *(B) in section 7353(b)(4), by inserting “or*  
6       *section 9832” after “chapter 37”.*



**Calendar No. 236**

108TH CONGRESS  
1ST SESSION

**S. 610**

**[Report No. 108–113]**

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**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.

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JULY 28 (LEGISLATIVE DAY, JULY 21), 2003

Reported with an amendment