

Summary of H.R. 1085, “NASA Flexibility Act of 2003” (Underlying Bill)

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

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

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

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

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

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

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

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

(Sec. 506) Authorizes the NASA Administrator to pay Voluntary Separation Incentive (VSI) payments up to 50 percent of an employee's annual salary if the employee is in a position that fills a critical need. Requires that VSI payments under this section are limited to only 10 employees in any calendar year, unless OMB approves a greater number of employees and Congress is notified. Requires that a NASA employee is not eligible to receive a VSI payment authorized under this section if the employee received certain other bonuses in the previous twelve months. Directs NASA to submit a copy of its plan on the use of incentive payments to Congress within 15 days after OPM's approval of the plan.

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

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

Directs the NASA Administrator to submit an annual report to Congress on the number of critical positions established or disestablished during the previous calendar year.

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

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

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