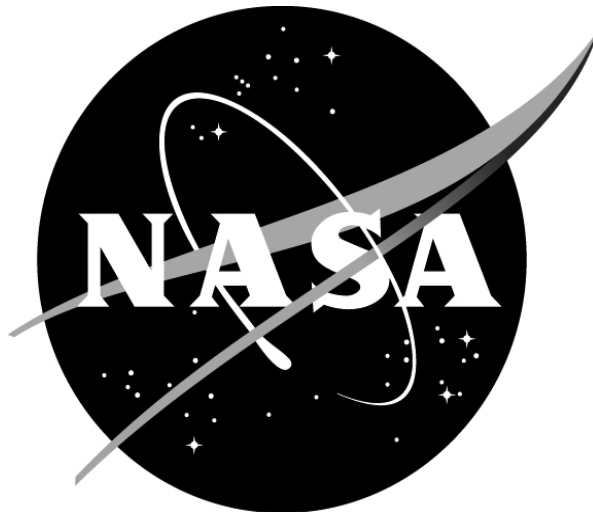


National Aeronautics and
Space Act of 1958,
As Amended



The National Aeronautics
and Space Administration

Printed for the use of the
National Aeronautics and Space Administration

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NATIONAL AERONAUTICS AND SPACE ACT OF 1958,
Pub. L. No. 85-568,
72 Stat. 426-438 (Jul. 29, 1958)
As Amended

AN ACT

To provide for research into problems of flight within and outside the earth's atmosphere,
and for other purposes.

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

TITLE I—SHORT TITLE, DECLARATION OF POLICY, AND DEFINITIONS

SHORT TITLE

Sec. 101. This Act may be cited as the “National Aeronautics and Space Act of 1958”.

DECLARATION OF POLICY AND PURPOSE

42 U.S.C. § 2451.

Sec. 102. (a) The Congress hereby declares that it is the policy of the United States that activities in space should be devoted to peaceful purposes for the benefit of all mankind.

(b) The Congress declares that the general welfare and security of the United States require that adequate provision be made for aeronautical and space activities. The Congress further declares that such activities shall be the responsibility of, and shall be directed by, a civilian agency exercising control over aeronautical and space activities sponsored by the United States, except that activities peculiar to or primarily associated with the development of weapons systems, military operations, or the defense of the United States (including the research and development necessary to make effective provision for the defense of the United States) shall be the responsibility of, and shall be directed by, the Department of Defense; and that determination as to which such agency has responsibility for and direction of any such activity shall be made by the President in conformity with section 2471(e).

(c) The Congress declares that the general welfare of the United States requires that the National Aeronautics and Space Administration (as established by title II of this Act) seek and encourage, to the maximum extent possible, the fullest commercial use of space.¹

(d) The aeronautical and space activities of the United States shall be conducted so as to contribute materially to one or more of the following objectives:

- (1) The expansion of human knowledge of the Earth and² of phenomena in the atmosphere and space;
- (2) The improvement of the usefulness, performance, speed, safety, and efficiency of aeronautical and space vehicles;
- (3) The development and operation of vehicles capable of carrying instruments, equipment, supplies, and living organisms through space;

¹ Subsection (c) was added by the National Aeronautics and Space Administration Authorization Act, 1985, Pub. L. No. 98-361, § 110(a), 98 Stat. 422, 426 (Jul. 16, 1984) and required a relettering of the subsequent subsections.

² The clause, “of the Earth and” was added by the National Aeronautics and Space Administration Authorization Act, 1985, Pub. L. No. 98-361, § 110(b), 98 Stat. 422, 426 (Jul. 16, 1984).

(4) The establishment of long-range studies of the potential benefits to be gained from, the Opportunities for, and the problems involved in the utilization of aeronautical and space activities for peaceful and scientific purposes;

(5) The preservation of the role of the United States as a leader in aeronautical and space science and technology and in the application thereof to the conduct of peaceful activities within and outside the atmosphere;

(6) The making available to agencies directly concerned with national defense of discoveries that have military value or significance, and the furnishing by such agencies, to the civilian agency established to direct and control nonmilitary aeronautical and space activities, of information as to discoveries which have value or significance to that agency;

(7) Cooperation by the United States with other nations and groups of nations in work done pursuant to this Act and in the peaceful application of the results thereof;

(8) The most effective utilization of the scientific and engineering resources of the United States, with close cooperation among all interested agencies of the United States in order to avoid unnecessary duplication of effort, facilities, and equipment; and

(9) The preservation of the United States preeminent position in aeronautics and space through research and technology development related to associated manufacturing processes.³

(e) The Congress declares that the general welfare of the United States requires that the unique competence in scientific and engineering systems of the National Aeronautics and Space Administration also be directed toward ground propulsion systems research and development. Such development shall be conducted so as to contribute to the objectives of developing energy- and petroleum-conserving ground propulsion systems, and of minimizing the environmental degradation caused by such systems.⁴

(f) The Congress declares that the general welfare of the United States requires that the unique competence of the National Aeronautics and Space Administration in science and engineering systems be directed to assisting in bioengineering research, development, and demonstration programs designed to alleviate and minimize the effects of disability.

(g) The Congress declares that the general welfare and security of the United States require that the unique competence of the National Aeronautics and Space Administration be directed to detecting, tracking, cataloguing, and characterizing near-Earth asteroids and comets in order to provide warning and mitigation of the potential hazard of such near-Earth objects to the Earth.

(h) It is the purpose of this Act to carry out and effectuate the policies declared in subsections (a), (b), (c), (d), (e), (f), and (g).⁵

³ Subsection (9) was added by the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989, Pub. L. No. 100-685, § 214, 102 Stat. 4083, 4093, (Nov. 17, 1988).

⁴ This subsection was added by the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976, Pub. L. No. 94-413, § 15, 90 Stat. 1260, 1270 (Sept. 17, 1976) and was subsection (d) before the new subsection (c) was added by the National Aeronautics and Space Administration Authorization Act, 1985.

⁵ Act Oct 30. 2000, deleted subsec. (f), which read: “(f) The Congress declares that the general welfare of the United States requires that the unique competence in scientific and engineering systems of the National Aeronautics and Space Administration also be directed toward the development of advanced automobile propulsion systems. Such development shall be conducted so as to contribute to the achievement of the purposes set forth in section 302(b) of the Automotive Propulsion Research and Development act of 1978.”; redesignated subsecs. (g) and (h) as subsecs. (f) and (g), respectively; and, in subsec. (g), as redesignated, substituted “and (f)” for “(f), and (g)”. Redesignated subsec. (h). Act Dec. 30 2005 redesignated (g) and (h), and provided additional text.

DEFINITIONS

Sec. 103. As used in this Act-

(1) the term “aeronautical and space activities” means (A) research into, and the solution of, problems of flight within and outside the Earth's atmosphere, (B) the development, construction, testing, and operation for research purposes of aeronautical and space vehicles, (C) the operation of a space transportation system including the Space Shuttle, upper stages, space platforms, and related equipment,⁶ (All footnotes need to be renumbered) and (D) such other activities as may be required for the exploration of space; and

42 U.S.C. § 2452.

(2) the term “aeronautical and space vehicles” means aircraft, missiles, satellites, and other space vehicles, manned and unmanned, together with related equipment, devices, components, and parts.

TITLE II-COORDINATION OF AERONAUTICAL AND SPACE ACTIVITIES

NATIONAL AERONAUTICS AND SPACE COUNCIL

[Sec. 201. (a) There is hereby established the National Aeronautics and Space Council ...] abolished.⁷

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Sec. 202. (a) There is hereby established the National Aeronautics and Space Administration (hereinafter called the “Administration”). The Administration shall be headed by an Administrator, who shall be appointed from civilian life⁸ by the President.

42 U.S.C. § 2472.
Establishment;
Administrator.

⁶ Subsection (C) was added by the National Aeronautics and Space Administration Authorization Act, 1984, Pub. L. No. 98-52, § 108, 97 Stat. 281, 285 (Jul. 15, 1983).

⁷ Reorganization Plan No. 1 of 1973, § 3(4), *reprinted* in 87 Stat. 1089, 1090, transmitted Jan. 26, 1973, 38 Fed. Reg. 9579 (Apr. 18, 1973), abolished the National Aeronautics and Space Council together with its functions, effective July 1, 1973. The National Space Council was established in the Executive Office of the President by the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989, Pub. L. No. 100-685, § 501, 102 Stat. 4083, 4102 (Nov. 7, 1988) (42 U.S.C. § 2471), and Executive Order 12675, April 20, 1989, (54 Fed. Reg. 17691), as amended by Executive Order 12712 (adding Secretary of Energy as a member of the Council), Executive Order 12881 (establishing National Science and Technology Council and authorizing it to oversee National Space Council), and Executive Order 12869 (terminating Vice President's Space Policy Advisory Board).

⁸ Pub. L. No. 101-48, 103 Stat. 136, (Jun. 30, 1989) provided that “notwithstanding the provisions of Section 202(a)” the President was authorized to appoint Rear Admiral Richard Truly as Administrator. Although Rear Admiral Truly retired from the Navy before being sworn in as Administrator, the waiver was necessary because he remained an officer on the retired list and was subject to recall.

by and with the advice and consent of the Senate.⁹ Under the supervision and direction of the President, the Administrator shall be responsible for the exercise of all powers and the discharge of all duties of the Administration, and shall have authority and control over all personnel and activities thereof.

(b) There shall be in the Administration a Deputy Administrator, who shall be appointed from civilian life by the President by and with the advice and consent of the Senate and shall perform such duties and exercise such powers as the Administrator may prescribe. The Deputy Administrator shall act for, and exercise the powers of, the Administrator during his absence or disability.

(c) The Administrator and the Deputy Administrator shall not engage in any other business, vocation, or employment while serving as such.

Deputy
Administrator.

Restriction.

FUNCTIONS OF THE ADMINISTRATION

42 U.S.C. § 2473.

Sec. 203. (a) The Administration, in order to carry out the purpose of this Act, shall—

(1) plan, direct, and conduct aeronautical and space activities;

(2) arrange for participation by the scientific community in planning scientific measurements and observations to be made through use of aeronautical and space vehicles, and conduct or arrange for the conduct of such measurements and observations;

(3) provide for the widest practicable and appropriate dissemination of information concerning its activities and the results thereof;

(4) seek and encourage, to the maximum extent possible, the fullest commercial use of space; and

(5) encourage and provide for Federal Government use of commercially provided space services and hardware, consistent with the requirements of the Federal Government.¹⁰

(b)(1) The Administration shall, to the extent of appropriated funds, initiate, support, and carry out such research, development, demonstration, and other related activities in ground propulsion technologies as are provided for in sections 4 through 10 of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976.¹¹

⁹ The Federal Executive Salary Act of 1964, Pub. L. No. 88-426, § 305(12), 78 Stat. 400, 423 (Aug. 14, 1964), repealed language in section 202 fixing the compensation of the Administrator and Deputy Administrator at per annum rates of \$22,500 and \$21,500 respectively. In lieu thereof, the positions of Administrator and Deputy Administrator were placed in level II and level III, respectively, of the Federal Executive Salary Schedule. In addition, the Federal Executive Salary Act of 1964, as amended, places other NASA positions such as the Inspector General, Chief Financial Officer, numerous Associate Administrators, and Chief Information Officer, in designated levels of the Federal Executive Salary Schedule. See 5 U.S.C. §§ 5311-5317 for current NASA positions on the Executive Schedule.

¹⁰ Paragraphs 203(a)(4) and (5) were added by the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1991, Pub. L. No. 101-611, § 107, 104 Stat. 3188, 3197 (Nov. 16, 1990).

¹¹ The Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976, Pub. L. No. 94-413, § 15, 90 Stat. 1260, 1270 (Sept. 17, 1976), added this new subsection. Subsections (b)(1) and (2) were relettered by the National Aeronautics and Space Administration Authorization Act, 1979, Pub. L. No. 95-401, § 6, 92 Stat. 857, 860, (Sept. 30, 1978), to correct a mislettering which resulted from the enactment of Public Law 94-413.

(2) The Administration shall initiate, support, and carry out such research, development, demonstrations, and other related activities in solar heating and cooling technologies (to the extent that funds are appropriated therefor) as are provided for in sections 5, 6, and 9 of the Solar Heating and Cooling Demonstration Act of 1974.¹²

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

(1) to make, promulgate, issue, rescind, and amend rules and regulations governing the manner of its operations and the exercise of the powers vested in it by law;

(2) to appoint and fix the compensation of such officers and employees as may be necessary to carry out such functions. Such officers and employees shall be appointed in accordance with the civil-service laws and their compensation fixed in accordance with the Classification Act of 1949, except that (A) to the extent the Administrator deems such action necessary to the discharge of his responsibilities, he may appoint not more than four hundred and twenty-five of the scientific, engineering, and administrative personnel of the Administration without regard to such laws, and may fix the compensation of such personnel not in excess of the rate of basic pay payable for level III of the Executive Schedule,¹³ and (B) to the extent the Administrator deems such action necessary to recruit specially qualified scientific and engineering talent, he may establish the entrance grade for scientific and engineering personnel without previous service in the Federal Government at a level up to two grades higher than the grade provided for such personnel under the General Schedule established by the Classification Act of 1949, and fix their compensation accordingly;

(3) to acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain laboratories, research and testing sites and facilities, aeronautical and space vehicles, quarters and related accommodations for employees and dependents of employees of the Administration, and such other real and personal property (including patents), or any interest therein, as the Administration deems necessary within and outside the continental United States; to acquire by lease or otherwise, through the

Solar heating and cooling.

Functions.
Rules and regulations.

Employee appointment and compensation.
Excepted positions.

Entrance grades; scientific and Engineering personnel.

Acquisition, construction, maintenance, etc.

¹² The Solar Heating and Cooling Demonstration Act of 1974, Pub. L. No. 93-409, § 4, 88 Stat. 1069, 1070, (Sept. 3, 1974), added this new subsection. See Appendix A, Sec. VIII, I of House Committee on Science and Technology, 98th Cong., National Aeronautics and Space Act of 1958, as Amended, and Related Legislation 86 (Comm. Print October 1983).

¹³ Section 2, of the NASA Flexibility Act of 2004, amended subparagraph (A) of section 203(c)(2) of the Space Act by striking “the highest rate of grade 18 of the General Schedule of the Classification Act of 1949, as amended,” and inserting “the rate of basic pay payable for level III of the Executive Schedule.”

Administrator of General Services, buildings or parts of buildings in the District of Columbia for the use of the Administration for a period not to exceed ten years without regard to the Act of March 3, 1877 (40 U.S.C. 34);¹⁴ to lease to others such real and personal property; to sell and otherwise dispose of real and personal property (including patents and rights thereunder) in accordance with the provisions of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 471 et seq.); and to provide by contract or otherwise for cafeterias and other necessary facilities for the welfare of employees of the Administration at its installations and purchase and maintain equipment therefor;

(4) to accept unconditional gifts or donations of services, money, or property, real, personal, or mixed, tangible or intangible;

(5) without regard to section 3648 of the Revised Statutes, as amended (31 U.S.C. 529),¹⁵ to enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of its work and on such terms as it may deem appropriate, with any agency or instrumentality of the United States, or with any State, Territory, or possession, or with any political subdivision thereof, or with any person, firm, association, corporation, or educational institution. To the maximum extent practicable and consistent with the accomplishment of the purposes of this Act, such contracts, leases, agreements, and other transactions shall be allocated by the Administrator in a manner which will enable small-business concerns to participate equitably and proportionately in the conduct of the work of the Administration;

(6) to use, with their consent, the services, equipment, personnel, and facilities of Federal and other agencies with or without reimbursement, and on a similar basis to cooperate with other public and private agencies and instrumentalities in the use of services, equipment, and facilities. Each department and agency of the Federal Government shall cooperate fully with the Administration in making its services, equipment, personnel, and facilities available to the Administration, and any such department or agency is authorized, notwithstanding any other provision of law, to transfer to or to receive from the Administration, without reimbursement, aeronautical and space vehicles, and supplies and equipment other than administrative supplies or equipment;

(7) to appoint such advisory committees as may be appropriate for purposes of consultation and advice to the Administration in the performance of its functions;

(8) to establish within the Administration such offices and procedures as may be appropriate to provide for the greatest possible coordination of its activities under this Act with related scientific and other activities being carried on by other public and private agencies and organizations;

Lease of buildings.

Disposal of property.

Cafeterias and other facilities for employees.

Gifts.

Contracts, leases, and other transactions.

Small-business participation.

Agency cooperation in use of services, equipment, etc.

Advisory committees.

Coordination with related activities.

¹⁴ 40 U.S.C. § 34 provides that “no contract shall be made for the rent of any building...to be used for the purposes of the Government in the District of Columbia, until an appropriation therefor shall have been made in terms by Congress...” The authority of NASA to lease buildings in the District of Columbia was added by Pub. L. No. 86-20, 73 Stat. 21 (May 13, 1959), to remedy the peculiar situation at that time where the agency had the money but no authority, and GSA had the authority but no money, to provide the agency with its own office space.

¹⁵ Former section 529 regarding advance payments has been recodified to 31 U.S.C. § 3324(a) and (b).

(9) to obtain services as authorized by section 3109 of title 5, United States Code, but at rates for individuals nor to exceed the per diem rate equivalent to the rate for GS- 18;¹⁶

(10) when determined by the Administrator to be necessary, and subject to such security investigations as he may determine to be appropriate, to employ aliens without regard to statutory provisions prohibiting payment of compensation to aliens;

(11) to provide by concession, without regard to section 321 of the Act of June 30, 1932 (47 Stat. 412; 40 U.S.C. 303b), on such terms as the Administrator may deem to be appropriate and to be necessary to protect the concessioner against loss of his investment in property (but not anticipated profits) resulting from the Administration's discretionary acts and decisions, for the construction, maintenance, and operation of all manner of facilities and equipment for visitors to the several installations of the Administration and, in connection therewith, to provide services incident to the dissemination of information concerning its activities to such visitors, without charge or with a reasonable charge therefor (with this authority being in addition to any other authority which the Administration may have to provide facilities, equipment, and services for visitors to its installations). A concession agreement under this paragraph may be negotiated with any qualified proposer following due consideration of all proposals received after reasonable public notice of the intention to contract. The concessioner shall be afforded a reasonable opportunity to make a profit commensurate with the capital invested and the obligations assumed, and the consideration paid by him for the concession shall be based on the probable value of such opportunity and not on maximizing revenue to the United States. Each concession agreement shall specify the manner in which the concessioner's records are to be maintained, and shall provide for access to any such records by the Administration and the Comptroller General of the United States for a period of five years after the close of the business year to which such records relate. A concessioner may be accorded a possessory interest, consisting of all incidents of ownership except legal title (which shall vest in the United States), in any structure fixture, or improvement he constructs or locates upon land owned by the United States; and, with the approval of the Administration, such possessory interest may be assigned, transferred, encumbered, or relinquished by him, and, unless otherwise provided by contract, shall not be extinguished by the expiration or other termination of the concession and may not be taken for public use without just compensation;¹⁷

(12) with the approval of the President, to enter into cooperative agreements under which members of the Army, Navy, Air Force, and Marine Corps may be

Experts and consultants.

Employment of aliens.

NASA installations, visitor facilities, concessions.

¹⁶ Previous language authorizing pay not to exceed \$100 per diem was amended to read as stated above by the National Aeronautics and Space Administration Authorization, Act, 1975, Pub. L. No. 93-316, § 6, 88 Stat. 240, 243 (Jun. 22, 1974). Pursuant to section 101(c)(1)(A) of FEPCA, references to the rate of pay for GS- 18 shall be considered references to the maximum rate payable under 5 U.S.C. § 5376.

¹⁷ The National Aeronautics and Space Administration Authorization Act, 1974, Pub. L. No. 93-74, § 6, 87 Stat. 171, 174-5 (Jul. 23, 1973) added paragraph 11. Previously, section 402(a)(34) of the Dual Compensation Act, Pub. L. No. 88-448, 78 Stat. 484, 495 (Aug. 19, 1964,) repealed the original section 203(b)(11), which had authorized NASA to employ retired commissioned officers of the armed forces of the United States subject to pay limitations.

detailed by the appropriate Secretary for services in the performance of functions under this Act to the same extent as that to which they might be lawfully assigned in the Department of Defense;

(13)(A) to consider, ascertain, adjust, determine, settle, and pay, on behalf of the United States, in full satisfaction thereof, any claim for \$25,000¹⁸ or less against the United States for bodily injury, death, or damage to or loss of real or personal property resulting from the conduct of the Administration's functions as specified in subsection (a) of this section, where such claim is presented to the Administration in writing within two years after the accident or incident out of which the claim arises; and

(B) if the Administration considers that a claim in excess of \$25,000 is meritorious and would otherwise be covered by this paragraph, to report the facts and circumstances thereof to the Congress for its consideration.¹⁹ and

(14) Repealed.²⁰

CIVILIAN-MILITARY LIAISON COMMITTEE

Sec. 204. [Civilian-Military Liaison Committee] abolished.²¹

INTERNATIONAL COOPERATION

Sec. 205. The Administration, under the foreign policy guidance of the President, may engage in a program of international cooperation in work done pursuant to this Act, and in the peaceful application of the results thereof, pursuant to agreements made by the President with the advice and consent of the Senate.²²

Claims against
United States.

42 U.S.C. § 2475.

¹⁸ The National Aeronautics and Space Administration Authorization Act, 1980, Pub. L. No. 96-48, § 6(a), 93 Stat. 345, 348 (Aug. 8, 1979) substituted "\$25,000" for "\$5,000" each place it appeared.

¹⁹ This section was amplified by the Supplemental Appropriations Act, 1978, Pub. L. No. 95-240, § 201, 92 Stat. 107, 116-7 (Mar. 7, 1978), authorizing access to the permanent judgment appropriation established under 31 U.S.C. § 1304. In 1996, 31 U.S.C. § 1304 was further amended by the General Accounting Office Act of 1996, Pub. L. No. 104-316, § 202(m), 110 Stat. 3826, 3843 (Oct. 19, 1996), so that claims under subparagraph (B) are now submitted to the Secretary of the Treasury for certification. Implementing regulations will appear at 14 CFR Part 1267. Additionally, NASA, like other Federal agencies, can settle claims under the Federal Tort Claims Act, as amended.

²⁰ The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Pub. L. No. 91 - 646, § 220(a)(2), 84 Stat. 1894, 1903, (Jan. 2, 1971), repealed section 203(b)(14) which had dealt with relocation assistance and had been added by the National Aeronautics and Space Administration Authorization Act for the Fiscal Year 1963, Pub. L. No. 87-584, § 6, 76 Stat. 382, 384-5 (Aug. 14, 1962).

²¹ This section has been omitted because, effective July 27, 1965, the Committee was abolished and its functions, together with the function of its chairman and other officers, were transferred to the President by Reorganization Plan No. 4 of 1965, § 1(e), 30 Fed. Reg. 9353 (Jul. 28, 1965) *reprinted in* 79 Stat. 1321, transmitted May 27, 1965.

²² President Eisenhower, upon the signing of the National Aeronautics and Space Act of 1958 on July 29, 1958, singled out and made the following statement about section 205: "I regard this section merely as recognizing that international treaties may be made in this field, and as not precluding, in appropriate cases, less formal arrangements for cooperation. To construe the section otherwise would raise substantial constitutional questions."

REPORTS TO CONGRESS

Sec. 206. (a) The President shall transmit to the Congress in May of each year a report, which shall include (1) a comprehensive description of the programmed activities and the accomplishments of all agencies of the United States in the field of aeronautics and space activities during the preceding fiscal year, and (2) an evaluation of such activities and accomplishments in terms of the attainment of, or the failure to attain, the objectives described in section 102(c) of this Act.²³

(b) Any report made under this section shall contain such recommendations for additional legislation as the Administrator or the President may consider necessary or desirable for the attainment of the objectives described in section 102(c) of this Act.

(c) No information which has been classified for reasons of national security shall be included in any report made under this section, unless such information has been declassified by, or pursuant to authorization given by, the President.²⁴

DISPOSAL OF EXCESS LAND

Sec. 207. Notwithstanding the provisions of this or any other law, the Administration may not report to a disposal agency as excess to the needs of the Administration any land having an estimated value in excess of \$50,000 which is owned by the United States and under the jurisdiction and control of the Administration, unless (A) a period of thirty days has passed after the receipt by the Speaker and the Committee on Science and Astronautics of the House of Representatives and the President and the Committee on Aeronautical and Space Sciences of the Senate²⁵ of a report by the Administrator or his designee containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such action, or (B) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.²⁶

42 U.S.C. § 2476.
President's annual report of aeronautics and space activities.

42 U.S.C. § 2476a.
Approval by congressional committees.

²³ As amended Oct. 30, 2000, Pub. L. 106-391, Title III, § 302(b), 114 Stat. 1591, in subsec. (a), substituted "May" for "January" and substituted "fiscal" for "calendar".

²⁴ The National Aeronautics and Space Administration Authorization Act, 1972, Pub. L. No. 92-68, § 7, 85 Stat. 174, 177 (Aug. 6, 1971), repealed the original subsection (a) of section 206 and relettered the remaining subsections (b), (c), and (d) as (a), (b), and (c).

²⁵ The "Committee Reform Amendments of 1974" (October 8, 1974), changed the name of the Committee on Science and Astronautics of the House of Representatives to the Committee on Science and Technology. In 1996, the Committee on Science and Technology was renamed the Committee on Science. The Committee on Aeronautical and Space Sciences of the Senate was abolished and its jurisdiction transferred to the new Committee on Commerce, Science and Transportation, especially the Subcommittee on Science, Technology and Space, by the "Committee System Reorganization Amendments of 1977" (February 2, 1977).

²⁶ The National Aeronautics and Space Administration Authorization Act, 1974, Pub. L. No. 93-74, § 7, 87 Stat. 171, 175 (Jul. 23, 1973), added section 207.

DONATIONS FOR SPACE SHUTTLE ORBITER

Sec. 208. [Donations for Space Shuttle Orbiter] authority expired.²⁷

TITLE III-MISCELLANEOUS

NATIONAL ADVISORY COMMITTEE FOR AERONAUTICS

Sec. 301. (a) The National Advisory Committee for Aeronautics, on the effective date of this section, shall cease to exist. On such date all functions, powers, duties, and obligations, and all real and personal property, personnel (other than members of the Committee), funds, and records of that organization, shall be transferred to the Administration.

(b) Section 2302 of title 10 of the United States Code is amended by striking out “or the Executive Secretary of the National Advisory Committee for Aeronautics.” and inserting in lieu thereof “or the Administrator of the National Aeronautics and Space Administration.”; and section 2303 of such title 10 is amended by striking out “The National Advisory Committee for Aeronautics.” and inserting in lieu thereof “The National Aeronautics and Space Administration.”

(c) The first section of the Act of August 26, 1950 (5 U.S.C. 22-1),²⁸ is amended by striking out “the Director, National Advisory Committee for Aeronautics” and inserting in lieu thereof “the Administrator of the National Aeronautics and Space Administration”, and by striking out “or National Advisory Committee for Aeronautics” and inserting in lieu thereof “or National Aeronautics and Space Administrator”.

(d) The Unitary Wind Tunnel Plan Act of 1949 (50 U.S.C. 511-515) is amended (1) by striking out “The National Advisory Committee for Aeronautics (hereinafter referred to as the ‘Committee’)” and inserting in lieu thereof “The Administrator of the National Aeronautics and Space Administration (hereinafter referred to as the ‘Administrator’)”; (2) by striking out “Committee” or “Committee’s” wherever they appear and inserting in lieu thereof “Administrator” and “Administrator’s”, respectively; and (3) by striking out “its” wherever it appears and inserting in lieu thereof “his”.

(e) This section shall take effect ninety days after the date of the enactment of this Act, or on any earlier date on which the Administrator shall determine, and announce by proclamation published in the Federal Register, that the Administration has been organized and is prepared to discharge the duties and exercise the powers conferred upon it by this Act.²⁹

Note under
42 U.S.C. § 2472
Termination.
Transfer of Functions.

Procurement.

National security;
suspension of
employees.

Unitary Wind
Tunnel Plan Act of 1949.
Effective date.

Publication in
Fed. Reg.

²⁷ The National Aeronautics and Space Administration Authorization Act of 1988, Pub. L. No. 100-147, 115, 101 Stat. 860, 866 (Oct. 30, 1987), added a provision to the Space Act, Section 208, “Donations for Space Shuttle Orbiter,” authorizing the Administrator to accept donations and gifts for the construction of a space shuttle orbiter. This provision expired consistent with the statute’s terms on October 30, 1992.

²⁸ The Act of August 26, 1950, was enacted to “protect the national security of the United States by permitting the summary suspension of employment of civilian officers and employees of various departments and agencies of the Government.” That Act was amended several times and then replaced by 5 U.S.C. §§ 3571, 5594, 7312, 7501(c), 7512(c), and 7532. 5 U.S.C. § 5594 was repealed by Pub L. No. 90-83, § 1(34)(B), 81 Stat. 195, 201 (Sept. 11, 1967). Sections 7501 and 7512 were repealed by the Civil Service Reform Act of 1978, Pub. L. No. 95-454, § 204(a), 92 Stat. 1111, 1134-1136 (Oct. 13, 1978).

²⁹ Effective close of business September 30, 1958, by virtue of Administrator Glennan’s proclamation of September 25, 1958 (23 Fed. Reg. 7595, Sept. 30, 1958).

TRANSFER OF RELATED FUNCTIONS

Sec. 302. (a) Subject to the provisions of this section, the President, for a period of four years after the date of enactment of this Act, may transfer to the Administration any functions (including powers, duties, activities, facilities, and parts of functions) of any other department or agency of the United States or of any officer or organizational entity thereof, which relate primarily to the functions, powers, and duties of the Administration as prescribed by section 203 of this Act. In connection with any such transfer, the President may, under this section or other applicable authority, provide for appropriate transfers of records, property, civilian personnel, and funds.³⁰

(b) Whenever any such transfer is made before January 1, 1959, the President shall transmit to the Speaker of the House of Representatives and the President pro tempore of the Senate a full and complete report concerning the nature and effect of such transfer.

(c) After December 31, 1958, no transfer shall be made under this section until (1) a full and complete report concerning the nature and effect of such proposed transfer has been transmitted by the President to the Congress, and (2) the first period of sixty calendar days of regular session of the Congress following the date of receipt of such report by the Congress has expired without the adoption by the Congress of a concurrent resolution stating that the Congress does not favor such transfer.³¹

42 U.S.C. § 2453.

ACCESS TO INFORMATION

Sec. 303. (a) Information obtained or developed by the Administrator in the performance of his functions under this Act shall be made available for public inspection; except (A) information authorized or required by Federal statute to be withheld, (B) information classified to protect the national security; and (C) information described in subsection (b): *Provided*, That nothing in this Act shall authorize the withholding of information by the Administrator from the duly authorized committees of the Congress.

(b) The Administrator, for a period up to 5 years after the development of information that results from activities conducted under an agreement entered into under section 203(c)(5) and (6) of this Act, and that would be a trade secret or commercial or financial information that is privileged or confidential under the meaning of section 552(b)(4) of

42 U.S.C. § 2454.
Public inspection
exceptions.

³⁰ Transfers pursuant to sec. 302 have been: Executive Order 10783, October 1, 1958, transferring from the Department of Defense the Project VANGUARD and other projects of the Advanced Research Projects Agency and the Department of the Air Force relating to space activities; Executive Order 10793, December 3, 1958, transferring from the Department of the Army the Jet Propulsion Laboratory (near Pasadena, California) except military operations and weapon system development programs; Transfer Plan, delivered to Congress January 14, 1960, effective March 15, 1960, transferring from the Department of Defense the activities of development and research of space vehicle systems and specifically the Development Operations Division of the Army Ballistic Missile Agency (near Huntsville, Alabama) (see President's Special Message delivered Jan. 14, 1960, *reprinted in* 1960 U.S.C.C.A.N. 1477).

³¹ Clause (2) is unconstitutional under the Supreme Court's legislative veto decision *INS v. Chadha*, 462 U.S. 919, (1983).

title 5, United States Code, if the Information had been obtained from a non-Federal party participating in such an agreement, may provide appropriate protections against the dissemination of such information, including exemption from subchapter II of chapter 5 of title 5, United States Code.³²

SECURITY REQUIREMENTS

Sec. 304. (A) The Administrator shall establish such security requirements, restrictions, and safeguards as he deems necessary in the interest of the national security. The Administrator may arrange with the Director of the Office of Personnel Management³³ for the conduct of such security or other personnel investigations of the Administration's officers, employees, and consultants, and its contractors and subcontractors and their officers and employees, actual or prospective, as he deems appropriate; and if any such investigation develops any data reflecting that the individual who is the subject thereof is of questionable loyalty the matter shall be referred to the Federal Bureau of Investigation for the conduct of a full field investigation, the results of which shall be furnished to the Administrator.

(b) The Atomic Energy Commission³⁴ may authorize any of its employees, or employees of any contractor, prospective contractor, licensee, or prospective licensee of the Atomic Energy Commission or any other person authorized to have access to Restricted Data by the Atomic Energy Commission under subsection 145b. of the Atomic Energy Act of 1954 (42 U.S.C. 2165(b)), to permit any member, officer, or employee of the Council, or the Administrator, or any officer, employee, member of an advisory committee, contractor, subcontractor, or officer or employee of a contractor or subcontractor of the Administration, to have access to Restricted Data relating to aeronautical and space activities which is required in the performance of his duties and so certified by the Council or the Administrator, as the case may be, but only if (1) the Council or Administrator or designee thereof has determined, in accordance with the established personnel security procedures and standards of the Council or Administration, that permitting such individual to have access to such Restricted Data will not endanger the common defense and security, and (2) the Council or Administrator or designee thereof finds that the established personnel and other security procedures and standards of the Council or

42 U.S.C. § 2455.
Establishment.

Investigations.

Referral to F.B.I.

Access to
restricted data.

³² Section 303(b) was added by the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1993, Pub. L. No. 102-588, § 509, 106 Stat. 5107, 5129 (Nov. 4, 1992). Section 303(b) further redesignated the previous 303 as section 303(a), and added paragraph 303(a)(C).

³³ "Director of the Office of Personnel Management" was substituted for "Civil Service Commission" pursuant to Reorg. Plan No. 2 of 1978, § 102, 43 Fed. Reg. 36037, *reprinted in* 92 Stat. 3783, transmitted May 23, 1978, which transferred functions vested by statute in the Civil Service Commission to the Director of the Office of Personnel Management, effective January 1, 1979, as provided by section 1-102 of Executive Order 12107, Dec. 28, 1978 (44 Fed. Reg. 1055).

³⁴ The Atomic Energy Commission was abolished and all functions were transferred to the Administrator of the Energy Research and Development Administration (ERDA) (unless otherwise specifically provided) by Pub. L. No. 93-438, § 104, 88 Stat. 1233, 1237 (Oct. 11, 1974). ERDA was terminated and its functions transferred to the Secretary of Energy (unless otherwise specifically provided) by Pub. L. No. 95-91, § 301, 91 Stat. 565, 577, and § 703, 91 Stat. 606, (Aug. 4, 1977).

Administration are adequate and in reasonable conformity to the standards established by the Atomic Energy Commission under section 145 of the Atomic Energy Act of 1954 (42 U.S.C. 2165). Any individual granted access to such Restricted Data pursuant to this subsection may exchange such Data with any individual who (A) is an officer or employee of the Department of Defense, or any department or agency thereof, or a member of the armed forces, or a contractor or subcontractor of any such department, agency, or armed force, or an officer or employee of any such contractor or subcontractor, and (B) has been authorized to have access to Restricted Data under the provisions of section 143 of the Atomic Energy Act of 1954 (42 U.S.C. 2163).

(c) Chapter 37 of title 18 of the United States Code (entitled Espionage and Censorship) is amended by-

(1) adding at the end thereof the following new section:

“§799. Violation of regulations of National Aeronautics and Space Administration.”

“Whoever willfully shall violate, attempt to violate, or conspire to violate any regulation or order promulgated by the Administrator of the National Aeronautics and Space Administration for the protection or security of any laboratory, station, base or other facility, or part thereof, or any aircraft, missile, spacecraft, or similar vehicle, or part thereof, or other property or equipment in the custody, of the Administration, or any real or personal property or equipment in the custody of any contractor under any contract with the Administration or any subcontractor of any such contractor, shall be fined not more than \$5,000, or imprisoned not more than one year, or both.”

(2) adding at the end of the sectional analysis thereof the following new item:

“§799. Violation of regulations of National Aeronautics and Space Administration.”

(d) Section 1114 of title 18 of the United States Code is amended by inserting immediately, before “while engaged in the performance of his official duties” the following: “or any officer or employee of the National Aeronautics and Space Administration directed to guard and protect property of the United States under the administration and control of the National Aeronautics and Space Administration.”

(e) The Administrator may direct such of the officers and employees of the Administration as he deems necessary in the public interest to carry firearms while in the conduct of their official duties. The Administrator may also authorize such of those employees of the contractors and subcontractors of the Administration engaged in the protection of property owned by the United States and located at facilities owned by or contracted to the United States as he deems necessary in the public interest, to carry firearms while in the conduct of their official duties.

(f) Under regulations to be prescribed by the Administrator and approved by the Attorney General of the United States, those employees of the Administration and of its contractors and subcontractors authorized to carry firearms under subsection (e) may arrest without warrant for any offense against the United States committed in their presence, or for any felony cognizable under the laws of the United States if they have reasonable grounds to believe that the person to be arrested has committed or is committing such felony. Persons granted authority to make arrests by this subsection may exercise that

Espionage and censorship.

Violation of regulations.

Penalty.

Protection of NASA officers and employees.

42 U.S.C. § 2456.
Permission to use firearms.

42 U.S.C. § 2456a.
Arrest authority.

authority only while guarding and protecting property owned or leased by, or under the control of, the United States under the administration and control of the Administration or one of its contractors or subcontractors, at facilities owned by or contracted to the Administration.³⁵

PROPERTY RIGHTS IN INVENTIONS

Sec. 305. (a) Whenever any invention is made in the performance of any work under any contract of the Administration, and the Administrator determines that

(1) the person who made the invention was employed or assigned to perform research, development, or exploration work and the invention is related to the work he was employed or assigned to perform, or that it was within the scope of his employment duties, whether or not it was made during working hours, or with a contribution by the Government of the use of Government facilities, equipment, materials, allocated funds, information proprietary to the Government, or services of Government employees during working hours; or

(2) the person who made the invention was not employed or assigned to perform research, development, or exploration work, but the invention is nevertheless related to the contract, or to the work or duties he was employed or assigned to perform, and was made during working hours, or with a contribution from the Government of the sort referred to in clause (1), such invention shall be the exclusive property of the United States, and if such invention is patentable a patent therefor shall be issued to the United States upon application made by the Administrator, unless the Administrator waives all or any part of the rights of the United States to such invention in conformity with the provisions of subsection (f) of this section.

(b) Each contract entered into by the Administrator with any party for the performance of any work shall contain effective provisions under which such party shall furnish promptly to the Administrator a written report containing full and complete technical information concerning any invention, discovery, improvement, or innovation which may be made in the performance of any such work.

(c) No patent may be issued to any applicant other than the Administrator for any invention which appears to the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office (hereafter in this section referred to as the "Director")³⁶ to have significant utility in the conduct of aeronautical and space activities unless the applicant files with the Director, with the application or within thirty days after request therefor by the Director, a written statement executed under oath setting forth the full facts concerning the circumstances under which such invention was

42 U.S.C. § 2457.
Inventions made in performance of work under contract.

Exclusive property of United States; issuance of patent.

Contract provision for reporting inventions, etc.

Patent application.

³⁵ Subsection (f) was added by section 206 of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989, Pub. L. No. 100-685, § 206, 102 Stat. 4083, 4090-1 (Nov. 17, 1988). The Act of Dec. 12, 1980, Pub. L. No. 96-517, § 7(b), 94 Stat. 3015, 3027, (amending the patent and trademark laws), deleted subsection (g) which authorized the Administrator to promulgate regulations for the granting of licenses for NASA patents. Section 8(f) of the Act provided that such deletion was effective on July 1, 1981.

³⁶ Act Nov. 29, 1999 (effective 4 months after enactment, as provided by § 4731 of S. 1948., as enacted into law by such Act, which appears as 35 USCS § 1 note), in subsec. (c), substituted "Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office (hereafter in this section referred to as the 'Director')" for "Commissioner of Patents" and substituted "Director" for "Commissioner" wherever appearing; and, in subsecs. (d) and (e), substituted "Director" for "Commissioner" wherever appearing.

made and stating the relationship (if any) of such invention to the performance of any work under any contract of the Administration. Copies of each such statement and the application to which it relates shall be transmitted forthwith by the Director to the Administrator.

(d) Upon any application as to which any such statement has been transmitted to the Administrator, the Director may, if the invention is patentable, issue a patent to the applicant unless the Administrator, within ninety days after receipt of such application and statement, requests that such patent be issued to him on behalf of the United States. If, within such time, the Administrator files such a request with the Director, the Director shall transmit notice thereof to the applicant, and shall issue such patent to the Administrator unless the applicant within thirty days after receipt of such notice requests a hearing before the Board of Patent Appeals and Interferences³⁷ on the question whether the Administrator is entitled under this section to receive such patent. The Board may hear and determine, in accordance with rules and procedures established for interference cases, the question so presented, and its determination shall be subject to appeal by the applicant or by the Administrator to the United States Court of Appeals for the Federal Circuit³⁸ in accordance with procedures governing appeals from decisions of the Board of Patent Appeals and Interferences in other proceedings.

(e) Whenever any patent has been issued to any applicant in conformity with subsection (d), and the Administrator thereafter has reason to believe that the statement filed by the applicant in connection therewith contained any false representation of any material fact, the Administrator within five years after the date of issuance of such patent may file with the Director a request for the transfer to the Administrator of title to such patent on the records of the Director. Notice of any such request shall be transmitted by the Director to the owner of record of such patent, and title to such patent shall be so transferred to the Administrator unless within thirty days after receipt of such notice such owner of record requests a hearing before the Board of Patent Appeals and Interferences on the question whether any such false representation was contained in such statement. Such question shall be heard and determined, and determination thereof shall be subject to review, in the manner prescribed by subsection (d) for questions arising thereunder. No request made by the Administrator under this subsection for the transfer of title to any patent, and no prosecution for the violation of any criminal statute, shall be barred by any failure of the Administrator to make a request under subsection (d) for the issuance of such patent to him, or by any notice previously given by the Administrator stating that he had no objection to the issuance of such patent to the applicant therefor.

(f) Under such regulations in conformity with this subsection as the Administrator to shall prescribe, he may waive all or any part of the rights of the United States under this section with respect to any invention or class of inventions made or which may be made

Patent issuance to applicant.

Board of Patent Appeals and Interferences.

False representations, request for transfer of title of patent.

Waiver of rights inventions.

³⁷ Section 205(c) of the Patent Law Amendments Act of 1984, Pub. L. No. 98-622, § 205(c), 98 Stat. 3383, 3388 (Nov. 8, 1984) amended subsections (d) and (e) of section 305 by striking “the Board of Patent Interferences” each time it appeared and inserting in lieu thereof “the Board of Patent Appeals and Interferences.”

³⁸ The Federal Courts Improvement Act of 1982, Pub. L. No. 97-164, § 162, 96 Stat. 25, 49 (Apr. 2, 1982), substituted “United States Courts of Appeals for the Federal Circuit” for “Court of Customs and Patent Appeals.”

by any person or class of persons in the performance of any work required by any contract of the Administration if the Administrator determines that the interests of the United States will be served thereby. Any such waiver may be made upon such terms and under such conditions as the Administrator shall determine to be required for the protection of the interests of the United States. Each such waiver made with respect to any invention shall be subject to the reservation by the Administrator of an irrevocable, nonexclusive, nontransferable, royalty-free license for the practice of such invention throughout the world by or on behalf of the United States or any foreign government pursuant to any treaty or agreement with the United States. Each proposal for any waiver under this subsection shall be referred to an Inventions and Contribution Board which shall be established by the Administrator within the Administration. Such Board shall accord to each interested party an opportunity for hearing, and shall transmit to the Administrator its findings of fact with respect to such proposal and its recommendations for action to be taken with respect thereto.

(g) [Repealed]³⁹

(h) The Administrator is authorized to take all suitable and necessary steps to protect any invention or discovery to which he has title, and to require that contractors or persons who retain title to inventions or discoveries under this section protect the inventions or discoveries to which the Administration has or may acquire a license of use.

(i) The Administration shall be considered a defense agency of the United States for the purpose of chapter 17 of title 35 of the United States Code.

(j) As used in this section

(1) the term "person" means any individual, partnership, corporation, association, institution, or other entity;

(2) the term "contract" means any actual or proposed contract, agreement, understanding, or other arrangement, and includes any assignment, substitution of parties, or subcontract executed or entered into thereunder; and

(3) the term "made", when used in relation to any invention, means the conception or first actual reduction to practice of such invention.

(k) Any object intended for launch, launched, or assembled in outer space shall be considered a vehicle for the purpose of section 272 of title 35, United States Code.⁴⁰

(l) The use or manufacture of any patented invention incorporated in a space vehicle launched by the United States Government for a person other than the United States shall not be considered to be a use or manufacture by or for the United States within the meaning of section 1498(a) of title 28, United States Code unless the Administration gives an express authorization or consent for such use or manufacture.⁴¹

Inventions and Contributions Board.

License Regulations. Protection of title.

Defense agency.

Definitions.

Definition of vehicle. Use of patented invention in space vehicle.

³⁹ The Act of Dec. 12, 1980, Pub. L. No. 96-517, § 7(b), 94 Stat. 3015, 3027, (amending the patent and trademark laws), deleted subsection (g) which authorized the Administrator to promulgate regulations for the granting of licenses for NASA patents. Section 8(f) of the Act provided that such deletion was effective on July 1, 1981.

⁴⁰ The National Aeronautics and Space Administration Authorization Act, 1982, Pub. L. No. 97-96, § 7, 95 Stat. 1207, 1210 (Dec. 21, 1981) added this subsection.

⁴¹ *Id.*

CONTRIBUTIONS AWARDS

Sec. 306. (a) Subject to the provisions of this section, the Administrator is authorized, upon his own initiative or upon application of any person, to make a monetary award, in such amount and upon such terms as he shall determine to be warranted, to any person (as defined by section 305) for any scientific or technical contribution to the Administration which is determined by the Administrator to have significant value in the conduct of aeronautical and space activities. Each application made for any such award shall be referred to the Inventions and Contributions Board established under section 305 of this Act. Such Board shall accord to each such applicant an opportunity for hearing upon such application, and shall transmit to the Administrator its recommendation as to the terms of the award, if any, to be made to such applicant for such contribution. In determining the terms and conditions of any award the Administrator shall take into account-

- (1) the value of the contribution to the United States;
- (2) the aggregate amount of any sums which have been expended by the applicant for the development of such contribution;
- (3) the amount of any compensation (other than salary received for services rendered as an officer or employee of the Government) previously received by the applicant for or on account of the use of such contribution by the United States; and
- (4) such other factors as the Administrator shall determine to be material.

(b) If more than one applicant under subsection (a) claims an interest in the same contribution, the Administrator shall ascertain and determine the respective interests of such applicants, and shall apportion any award to be made with respect to such contribution among such applicants in such proportions as he shall determine to be equitable. No award may be made under subsection (a) with respect to any contribution-

(1) unless the applicant surrenders, by such means as the Administrator shall determine to be effective, all claims which such applicant may have to receive any compensation (other than the award made under this section) for the use of such contribution or any element thereof at any time by or on behalf of the United States, or by or on behalf of any foreign government pursuant to any treaty or agreement with the United States, within the United States or at any other place;

(2) in any amount exceeding \$100,000, unless the Administrator has transmitted to the appropriate committees of the Congress a full and complete report concerning the amount and terms of, and the basis for, such proposed award, and thirty calendar days of regular session of the Congress have expired after receipt of such report by such committees.

DEFENSE OF CERTAIN MALPRACTICE AND NEGLIGENCE SUITS⁴²

Sec. 307. (a) The remedy against the United States provided by sections 1346(b) and 2672 of title 28, United States Code, for damages for personal injury, including death, caused by the negligent or wrongful act or omission of any physician, dentist,

42 U.S.C. § 2458.
Application.

Referral to Inventions and Contributions Board, hearing and recommendation.
Determination by Administrator.

Apportionment of award.

Surrender of claims to compensation.

Limitation of amount; report to Congress.

42 U.S.C. § 2458a.

⁴² The Act of Oct. 8, 1976, Pub. L. No. 94-464, § 3, 90 Stat. 1985, 1988, (providing for medical malpractice suits against the United States) added this new section 307 and redesignated old section 307 as section 308.

nurse, pharmacist, or paramedical or other supporting personnel (including medical and dental technicians, nursing assistants, and therapists) of the Administration in the performance of medical, dental, or related health care functions (including clinical studies and investigations) while acting within the scope of his duties or employment therein or therefor shall hereafter be exclusive of any other civil action or proceeding by reason of the same subject matter against such physician, dentist, nurse, pharmacist, or paramedical or other supporting personnel (or the estate of such person) whose act or omission gave rise to such action or proceeding.

(b) The Attorney General shall defend any civil action or proceeding brought in any court against any person referred to in subsection (a) of this section (or the estate of such person) for any such injury. Any such person against whom such civil action or proceeding is brought shall deliver within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon such person or an attested true copy thereof to such person's immediate superior or to whomever was designated by the Administrator to receive such papers and such person shall promptly furnish copies of the pleading and process therein to the United States Attorney for the district embracing the place wherein the proceeding is brought to the Attorney General and to the Administrator.

(c) Upon a certification by the Attorney General that any person described in subsection (a) was acting in the scope of such person's duties or employment at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States of the district and division embracing the place wherein it is pending and the proceeding deemed a tort action brought against the United States under the provisions of title 28, United States Code, and all references thereto. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merits that the case so removed is one in which a remedy by suit within the meaning of subsection (a) of this section is not available against the United States, the case shall be remanded to the State court.

(d) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677 of title 28, United States Code, and with the same effect.

(e) For purposes of this section, the provisions of section 2680(h) of title 28, United States Code, shall not apply to any cause of action arising out of a negligent or wrongful act of omission in the performance of medical, dental, or related health care functions (including clinical studies and investigations).

(f) The Administrator or his designee may, to the extent that the Administrator or his designee deem appropriate, hold harmless or provide liability insurance for any person described in subsection (a) for damages for personal injury, including death, caused by such person's negligent or wrongful act or omission in the performance of medical, dental, or related health care functions (including clinical studies and investigations) while acting within the scope of such person's duties if such person is assigned to a foreign country or detailed for service with other than a Federal department, agency, or instrumentality or if the circumstances are such as are likely to preclude the remedies of third persons against the United States described in section 2679(b) of title 28, United States Code, for such damage or injury.

Attorney General to defend any civil action for malpractice or negligence.

Removal of actions.

Settlement of claims.

Liability insurance for persons assigned to a foreign country or non-Federal agency.

INSURANCE AND INDEMNIFICATION⁴³

Sec. 308. (a) The Administration is authorized on such terms and to the extent it may deem appropriate to provide liability insurance for any user of a space vehicle to compensate all or a portion of claims by third parties for death, bodily injury, or loss of or damage to property resulting from activities carried on in connection with the launch, operations or recovery of the space vehicle. Appropriations available to the Administration may be used to acquire such insurance, but such appropriations shall be reimbursed to the maximum extent practicable by the users under reimbursement policies established pursuant to section 203(c) of this Act.

(b) Under such regulations in conformity with this section as the Administrator shall prescribe taking into account the availability, cost and terms of liability insurance, any agreement between the Administration and a user of a space vehicle may provide that the United States will indemnify the user against claims (including reasonable expenses of litigation or settlement) by third parties for death, bodily injury, or loss of or damage to property resulting from activities carried on in connection with the launch, operations or recovery of the space vehicle, but only to the extent that such claims are not compensated by liability insurance of the user: Provided, That such indemnification may be limited to claims resulting from other than the actual negligence or willful misconduct of the user.

(c) An agreement made under subsection (b) that provides indemnification must also provide for-

(1) notice to the United States of any claim or suit against the user for the death, bodily injury, or loss of or damage to the property; and

(d) No payment may be made under subsection (b) unless the Administrator or his designee certifies that the amount is just and reasonable.

(e) Upon the approval by the Administrator, payments under subsection (b) may be made, at the Administrator's election, either from funds available for research and development not otherwise obligated or from funds appropriated for such payments.

(f) As used in this section

(1) the term "space vehicle" means an object intended for launch, launched or assembled in outer space, including the Space Shuttle and other components of a space transportation system, together with related equipment, devices, components and parts;

(2) the term "user" includes anyone who enters into an agreement with the Administration for use of all or a portion of a space vehicle, who owns or provides property to be flown on a space vehicle, or who employs a person to be flown on a space vehicle; and

(3) the term "third party" means any person who may institute a claim against a user for death, bodily injury or loss of or damage to property.

42 U.S.C. § 2458b.
Authorization to provide liability insurance.

Indemnification of user.

Notice of suit; control of suit.

Payments.

Definitions.

⁴³The National Aeronautics and Space Administration Authorization Act, 1980, Pub. L. No. 96-48, § 6(b), 93 Stat. 345, 348-350 (Aug. 8, 1979), added new section 308 and redesignated old section 308 as section 309. Section 6(c) of the Act provided that the amendment would be effective October 1, 1979.

EXPERIMENTAL AEROSPACE VEHICLE⁴⁴

Sec. 309.⁴⁵ (a) The Administrator may provide liability insurance for, or indemnification to, the developer of an experimental aerospace vehicle developed or used in execution of an agreement between the Administration and the developer.

(b) Terms and Conditions.

(1) Except as otherwise provided in this section, the insurance and indemnification provided by the Administration under subsection (a) to a developer shall be provided on the same terms and conditions as insurance and indemnification is provided by the Administration under section 308 of this Act to the user of a space vehicle.

(2) Insurance.

(A) A developer shall obtain liability insurance or demonstrate financial responsibility in amounts to compensate for the maximum probable loss from claims by—

(i) a third party for death, bodily injury, or property damage, or loss resulting from an activity carried out in connection with the development or use of an experimental aerospace vehicle; and

(ii) the United States Government for damage or loss to Government property resulting from such an activity.

(B) The Administrator shall determine the amount of insurance required, but, except as provided in subparagraph (C), that amount shall not be greater than the amount required under section 70112(a)(3) of title 49, United States Code, for a launch. The Administrator shall publish notice of the Administrator's determination and the applicable amount or amounts in the Federal Register within 10 days after making the determination.

(C) The Administrator may increase the dollar amounts set forth in section 70112(a) (3)(A) of title 49, United States Code, for the purpose of applying that section under this section to a developer after consultation with the Comptroller General and such experts and consultants as may be appropriate, and after publishing notice of the increase in the Federal Register not less than 180 days before the increase goes into effect. The Administrator shall make available for public inspection, not later than the date of publication of such notice, a complete record of any correspondence received by the Administration, and a transcript of any meetings in which the Administration participated, regarding the proposed increase.

(D) The Administrator may not provide liability insurance or indemnification under subsection (a) unless the developer establishes to the satisfaction of the Administrator that appropriate safety procedures and practices are being followed in the development of the experimental aerospace vehicle.

42 U.S.C. § 2458c.

Terms and
Conditions.

Insurance.

Maximum
insurance
required.

Increase in Dollar
Amounts.
Federal Register,
publication.
Notice.
Deadline.

Public
information.
Records.

Safety Review.

⁴⁴ This section was added, without number, after section 308 by the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2000, Pub. L. No. 106-74, § 435 (a), 113 Stat. 1047, 1097-1100 (Oct. 20, 1999). Section 435(b) of this Act repealed a similar provision at section 431 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999, Pub. L. No. 105-276.

⁴⁵ As originally enacted by § 435(a) of Act Oct. 20, 1999, P.L. 106-74, this section added after § 308 of Title III of Act July 29, 1958, P.L. 85-568, but it was not assigned a section number. It was subsequently designated § 309 of such Title by §324(1)(2) of Act Oct. 30, 2000, P.L. 106-391.

(3) Notwithstanding subsection (a), the Administrator may not indemnify a developer of an experimental aerospace vehicle under this section unless there is an agreement between the Administration and the developer described in subsection (c).

(4) If the Administrator requests additional appropriations to make payments under this section, like the payments that may be made under section 308(b) of this Act, then the request for those appropriations shall be made in accordance with the procedures established by subsections (d) and (e) of section 70113 of title 49, United States Code.

(c) Cross-Waivers.⁴⁶

(1) The Administrator, on behalf of the United States, and its departments, agencies, and instrumentalities,⁴⁷ may reciprocally waive claims with a developer or cooperating party and with the related entities of that developer or cooperating party under which each party to the waiver agrees to be responsible, and agrees to ensure that its own related entities are responsible, for damage or loss to its property for which it is responsible, or for losses, resulting from any injury or death sustained by its own employees or agents, as a result of activities connected to the agreement or use of the experimental aerospace vehicle.

(2) Limitations.

(A) A reciprocal waiver under paragraph (1) may not preclude a claim by any natural person (including, but not limited to, a natural person who is an employee of the United States, the developer, the cooperating party, or their respective subcontractors) or that natural person's estate, survivors, or subrogees for injury or death, except with respect to a subrogee that is a party to the waiver or has otherwise agreed to be bound by the terms of the waiver.

(B) A reciprocal waiver under paragraph (1) may not absolve any party of liability to any natural person (including, but not limited to, a natural person who is an employee of the United States, the developer, the cooperating party, or their respective subcontractors) or such a natural person's estate, survivors, or subrogees for negligence, except with respect to a subrogee that is a party to the waiver or has otherwise agreed to be bound by the terms of the waiver.

(C) A reciprocal waiver under paragraph (1) may not be used as the basis of a claim by the Administration, or the developer or cooperating party, for indemnification against the other for damages paid to a natural person, or that natural person's estate, survivors, or subrogees, for injury or death sustained by that natural person as a result of activities connected to the agreement or use of the experimental aerospace vehicle.

(D) A reciprocal waiver under paragraph (1) may not relieve the United States, the developer, the cooperating party, or the related entities of the developer or cooperating party, of liability for damage or loss resulting from willful misconduct.

(3) Subsection (c) applies to any waiver of claims entered into by the Administration without regard to whether it was entered into before, on, or after the date of the enactment of this Act.

(d) Definitions. In this section:

(1) Cooperating Party.-The term "cooperating party" means any person who enters into an agreement with the Administration for the performance of cooperative scientific, aeronautical, or space activities to carry out the purposes of this Act.

No
Indemnification
without cross-
waiver.

Cross-waivers.

Limitations –
Claims.

Liability for
Negligence.

Indemnification
for Damages.

Willful
Misconduct.

Effect on
Previous Waivers.

Definitions.

⁴⁶Subsection (c) of this section was added by section 6 of the National Aeronautics and Space Administration Authorization Act, 1964, Pub. L. No. 88-113, 77 Stat. 141, 144 (Sept. 6, 1963); note that section 309 in the original Space Act was section 307.

⁴⁷ Act Oct. 30, 2000, P.L. 106-391, Title III, § 324(s)(2), (b), 114 Stat. 1599, designated this section as § 309 of Act July 29, 1958, P.L. 85-568; in subsec. (c), para. (1), substituted "departments, agencies, and instrumentalities" for "departments, agencies, and related entities", and, in para. (2), added supara. (D); and added subsec. (f).

(2) Developer-The term “developer” means a United States person (other than a natural person) who-

(A) is a party, to an agreement with the Administration for the purpose of developing new technology for an experimental aerospace vehicle;

(B) owns or provides property to be flown or situated on that vehicle; or

(C) employs a natural person to be flown on that vehicle.

(3) Experimental Aerospace Vehicle.-The term “experimental aerospace vehicle” means an object intended to be flown in, or launched into, orbital or suborbital flight for the purpose of demonstrating technologies necessary for a reusable launch vehicle, developed under an agreement between the Administration and a developer.

(4) Related Entity.-The term “related entity” includes a contractor or subcontractor at any tier, a supplier, a grantee, and an investigator or detailee.

(e) Relationship to Other Laws.

(1) Section 308.-This section does not apply to any object, transaction, or operation to which section 308 of this Act applies.

(2) Chapter 701 of Title 49, United States Code.-The Administrator may not provide indemnification to a developer under this section for launches subject to license under section 70117(g)(1) of title 49, United States Code.

(f) Termination (1) In General. The provisions of this section shall terminate on December 31, 2010, except that the Administrator may extend the termination date to a date not later than September 30, 2005, if the Administrator determines that such extension is in the interests of the United States.

(2) Effect of Termination on Agreement. The termination of this section shall not terminate or otherwise affect any cross-waiver agreement, insurance agreement, indemnification agreement, or other agreement entered into under this section, except as may be provided in that agreement.⁴⁸

Relationship to
Other Laws.

Termination.

APPROPRIATIONS

Sec. 310.⁴⁹(a) There are hereby authorized to be appropriated such sums as may be necessary to carry out this Act, except that nothing in this Act shall authorize the appropriation of any amount for (1) the acquisition or condemnation of any real property, or (2) any other item of a capital nature (such as plant or facility acquisition, construction, or expansion) which exceeds \$250,000. Sums appropriated pursuant to this subsection for the construction of facilities, or for research and development activities, shall remain available until expended.

(b) Any funds appropriated for the construction of facilities may be used for emergency repairs of existing facilities when such existing facilities are made inoperative by major breakdown, accident, or other circumstances and such repairs are deemed by the Administrator to be of greater urgency than the construction of new facilities.

(c) Notwithstanding any other provision of law, the authorization of any appropriation to the Administration shall expire (unless an earlier expiration is specifically provided) at the close of the third fiscal year following the fiscal year in which the authorization was enacted, to the extent that such appropriation has not theretofore actually been made.

42 U.S.C. § 2459.
Authorization of
appropriations.

Funds for
emergency repairs.

Expiration of
authorizations.

⁴⁸ *Id.*

⁴⁹ This section, enacted as § 307 of Title III of Act July 29, 1958, P.L. 85-568, was redesignated § 308 of such Title by § 3 of Act Oct. I, 1976, P.L. 94-464; it was further redesignated § 309 of such Title by § 6(b) of Act Aug. 8, 1979, P.L. 96-48; it was further redesignated § 310 of such Title §324(a)(1) of Act Oct. 30, 2000, P.L. 106-391. Act Dec. 30 2005 amended (f)(1).

MISUSE OF AGENCY NAME AND INITIALS⁵⁰

Sec. 311.⁵¹ (a) No person (as defined by section 305) may (1) knowingly use the words “National Aeronautics and Space Administration” or the letters “NASA”, or any combination, variation, or colorable imitation of those words or letters either alone or in combination with other words or letters, as a firm or business name in a manner reasonably calculated to convey the impression that such firm or business has some connection with, endorsement of, or authorization from, the National Aeronautics and Space Administration which does not, in fact, exist; or (2) knowingly use those words or letters or any combination, variation, or colorable imitation thereof either alone or in combination with other words or letters in connection with any product or service being offered or made available to the public in a manner reasonably calculated to convey the impression that such product or service has the authorization, support, sponsorship, or endorsement of, or the development, use, or manufacture by or on behalf of the National Aeronautics and Space Administration which does not, in fact, exist.

(b) Whenever it appears to the Attorney General that any person is engaged in an act or practice which constitutes or will constitute conduct prohibited by subsection (a), the Attorney General may initiate a civil proceeding in a district court of the United States to enjoin such act or practice.

42 U.S.C. § 2459b.

CONTRACTS REGARDING EXPENDABLE LAUNCH VEHICLES⁵²

Sec. 312.⁵³ (a) The Administrator may enter into contracts for expendable launch vehicle services that are for periods in excess of the period for which funds are otherwise available for obligation, provide for the payment for contingent liability which may accrue in excess of available appropriations in the event the Government for its convenience terminates such contracts, and provide for advance payments reasonably related to launch vehicle and related equipment, fabrication, and acquisition costs, if any such contract limits the amount of the payments that the Federal Government is allowed to make under such contract to amounts provided in advance in appropriation Acts. Such contracts may be limited to sources within the United States when the Administrator determines that such limitation is in the public interest.

(b) If funds are not available to continue any such contract, the contract shall be terminated for the convenience of the Government, and the costs of such contract shall be paid from appropriations originally available for performance of the contract, from other, unobligated appropriations currently available for the procurement of launch services, or from funds appropriated for such payments.

42 U.S.C. § 2459c.

⁵⁰ This section was added by section 107 of the National Aeronautics and Space Administration Authorization Act, 1984, Pub. L. No. 98-52, 97 Stat. 281, 284-285 (Jul. 15, 1983).

⁵¹ This section, enacted as § 310 of Title III of Act July 29, 1958, was redesignated § 311 of such Title by § 324(a)(1) of Act Oct. 30, 2000, P.L. 106-391.

⁵² This Section was added by the National Aeronautics and Space Administration Authorization Act of 1988, Pub. L. No. 100-147, § 117, 101 Stat. 860, 867 (Oct. 30, 1987).

⁵³ This section, enacted as § 311 of Title III of Act July 29, 1958, P.L. 85-568, was redesignated § 312 of such Title by § 324(a)(1) of Act Oct. 30, 2000, P.L. 106-391.

FULL COST APPROPRIATIONS ACCOUNT STRUCTURE⁵⁴

Sec. 313.⁵⁵ (a)(1) Appropriations for the Administration for fiscal year 2007 and thereafter shall be made in three accounts, "Science, Aeronautics, and Education", "Exploration Systems and Space Operations", and an account for amounts appropriated for the necessary expenses of the Office of the Inspector General.

42 U.S.C. § 2459f.

(2) Within the Exploration Systems and Space Operations account, no more than 10 percent of the funds for a fiscal year for Exploration Systems may be reprogrammed for Space Operations, and no more than 10 percent of the funds for a fiscal year for Space Operations may be reprogrammed for Exploration Systems. This paragraph shall not apply to reprogramming for the purposes described in subsection (b)(2).

(3) Appropriations shall remain available for two fiscal years, unless otherwise specified in law. Each account shall include the planned full costs of Administration activities.

(b) (1) To ensure the safe, timely, and successful accomplishment of Administration missions, the Administration may transfer amounts for Federal salaries and benefits; training, travel and awards; facility and related costs; information technology services; publishing services; science, engineering, fabricating and testing services; and other administrative services among accounts, as necessary.

(c) The unexpired balances of prior appropriations to the Administration for activities authorized under this Act may be transferred to the new account established for such activity in subsection (a). Balances so transferred may be merged with funds in the newly established account and thereafter may be accounted for as one fund under the same terms and conditions.

PRIZE AUTHORITY⁵⁶

Sec. 314. (a) In General.—The Administration may carry out a program to competitively award cash prizes to stimulate innovation in basic and applied research, technology development, and prototype demonstration that have the potential for application to the performance of the space and aeronautical activities of the Administration. The Administration may carry out a program to award prizes only in conformity with this section.

42 U.S.C. § 2459f-1.

(b) Topics.—In selecting topics for prize competitions, the Administrator shall consult widely both within and outside the Federal Government, and may empanel advisory committees.

(c) Advertising.—The Administrator shall widely advertise prize competitions to encourage participation.

(d) Requirements and Registration.—For each prize competition, the Administrator shall publish a notice in the Federal Register announcing the subject of the competition, the rules for being eligible to participate in the competition, the amount of the prize, and the basis on which a winner will be selected.

Notice.
Federal Register,
publication.

⁵⁴ This Section was added by the National Aeronautics and Space Administration Authorization Act of 2000, Pub. L. No. 106-377, § 1(a)(1), 114 Stat. 1441.

⁵⁵ This section, enacted as § 312 of Title III of Act July 29, 1958, P.L. 85-568, was redesignated. § 313 of such Act, by § 417 of Title IV of Div G of Act Jan. 23., 2004, P.L. 108-199. Amended (a) and (b) text by Pub. L. 109-155, Title II, 119 Stat. 2915, on Dec. 30 2005.

⁵⁶ Section 314 was added by Pub. L. No. 109-155, Title I, 119 Stat. 2910, on Dec. 30, 2005.

(e) Eligibility.—To be eligible to win a prize under this section, an individual or entity—

- (1) shall have registered to participate in the competition pursuant to any rules promulgated by the Administrator under subsection (d);
- (2) shall have complied with all the requirements under this section;
- (3) in the case of a private entity, shall be incorporated in and maintain a primary place of business in the United States, and in the case of an individual, whether participating singly or in a group, shall be a citizen or permanent resident of the United States; and
- (4) shall not be a Federal entity or Federal employee acting within the scope of their employment.

(f) Liability.—(1) Registered participants must agree to assume any and all risks and waive claims against the Federal Government and its related entities, except in the case of willful misconduct, for any injury, death, damage, or loss of property, revenue, or profits, whether direct, indirect, or consequential, arising from their participation in a competition, whether such injury, death, damage, or loss arises through negligence or otherwise. For the purposes of this paragraph, the term ‘related entity’ means a contractor or subcontractor at any tier, and a supplier, user, customer, cooperating party, grantee, investigator, or detailee.

(2) Participants must obtain liability insurance or demonstrate financial responsibility, in amounts determined by the Administrator, for claims by—

- (A) a third party for death, bodily injury, or property damage, or loss resulting from an activity carried out in connection with participation in a competition, with the Federal Government named as an additional insured under the registered participant’s insurance policy and registered participants agreeing to indemnify the Federal Government against third party claims for damages arising from or related to competition activities; and
- (B) the Federal Government for damage or loss to Government property resulting from such an activity.

(g) Judges.—For each competition, the Administration, either directly or through an agreement under subsection (h), shall assemble a panel of qualified judges to select the winner or winners of the prize competition on the basis described pursuant to subsection (d). Judges for each competition shall include individuals from outside the Administration, including from the private sector. A judge may not—

- (1) have personal or financial interests in, or be an employee, officer, director, or agent of any entity that is a registered participant in a competition; or
- (2) have a familial or financial relationship with an individual who is a registered participant.

(h) Administering the Competition.—The Administrator may enter into an agreement with a private, nonprofit entity to administer the prize competition, subject to the provisions of this section.

(i) Funding.—(1) Prizes under this section may consist of Federal appropriated funds and funds provided by the private sector for such cash prizes. The Administrator may accept funds from other Federal agencies for such cash prizes. The Administrator may not give any special consideration to any private sector entity in return for a donation.

(2) Notwithstanding any other provision of law, funds appropriated for prize awards under this section shall remain available until expended, and may be transferred, reprogrammed, or expended for other purposes only after the expiration of 10 fiscal years after the fiscal year for which the funds were originally appropriated. No provision in this section permits obligation or payment of funds in violation of the Anti-Deficiency Act (31 U.S.C. 1341).

(3) No prize may be announced under subsection (d) until all the funds needed to pay out the announced amount of the prize have been appropriated or committed in writing by a private source. The Administrator may increase the amount of a prize after an initial announcement is made under subsection (d) if—

(A) notice of the increase is provided in the same manner as the initial notice of the prize; and

(B) the funds needed to pay out the announced amount of the increase have been appropriated or committed in writing by a private source.

(4) No prize competition under this section may offer a prize in an amount greater than \$10,000,000 unless 30 days have elapsed after written notice has been transmitted to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(5) No prize competition under this section may result in the award of more than \$1,000,000 in cash prizes without the approval of the Administrator.

(j) Use of NASA Name and Insignia.—A registered participant in a competition under this section may use the Administration’s name, initials, or insignia only after prior review and written approval by the Administration.

(k) Compliance With Existing Law.—The Federal Government shall not, by virtue of offering or providing a prize under this section, be responsible for compliance by registered participants in a prize competition with Federal law, including licensing, export control, and non-proliferation laws, and related regulations.

LEASE OF NON-EXCESS PROPERTY^{57, 58}

Sec. 315. (a) In general. The Administrator may enter into a lease under this section with any person or entity (including another department or agency of the Federal Government or an entity of a State or local government) with regard to any non-excess real property and related personal property under the jurisdiction of the Administrator.⁵⁹

(b) Consideration.

(1) A person or entity entering into a lease under this section shall provide cash consideration for the lease at fair market value as determined by the Administrator.

(2)

(A) The Administrator may utilize amounts of cash consideration received under this subsection for a lease entered into under this section to cover the full costs to NASA in connection with the lease. These funds shall remain available until expended.

(B) Any amounts of cash consideration received under this subsection that are not utilized in accordance with subparagraph (A) shall be deposited in a capital asset account to be established by the Administrator, shall be available for capital revitalization and construction projects and improvements of real property assets and related personal property under the jurisdiction of the Administrator, and shall remain available until expended.

(C) Amounts utilized under subparagraph (B) may not be utilized for daily operating costs.⁶⁰

Notification.

42 U.S.C. § 2459j.

⁵⁷ Section 315 was added by Pub. L. No. 108-7, Div K, Title IV, § 418, 117 Stat. 525, on Feb. 20, 2003.

⁵⁸ Section 315 title was amended by Pub. L. No. 110-161, 121 Stat. 1844, Sec. 533. (e), on Dec. 26, 2007.

⁵⁹ Subsection (a) was amended by Pub. L. No. 110-161, 121 Stat. 1844, Sec. 533. (a), on Dec. 26, 2007, (1) by striking “Notwithstanding any other provision of law, the Administrator” and inserting “The Administrator”; and (2) by striking “any real property” and inserting “any nonexcess real property and related personal property”; and (3) by striking “at no more than two (2) National Aeronautics and Space Administration (NASA) centers”.

⁶⁰ Subsection (b) was amended by Pub. L. No. 110-161, 121 Stat. 1844, Sec. 533. (b), on Dec. 26, 2007, (1) in paragraph (1), by striking “consideration” and all that follows through the end of the paragraph and inserting “cash consideration for the lease at fair market value as determined by the Administrator.”;

(2) by striking paragraph (2); (3) by redesignating paragraph (3) as paragraph (2); and (4) in paragraph (2), as redesignated by paragraph (3) of this subsection— (A) in subparagraph (B), by striking “maintenance” and all that follows through “centers selected for this demonstration program” and inserting “capital revitalization and construction projects and improvements of real property assets and related personal property under the jurisdiction of the Administrator”; and (B) by adding at the end the following new subparagraph: “(C) Amounts utilized under subparagraph (B) may not be utilized for daily operating costs.”

(c) Additional terms and conditions. The Administrator may require such terms and conditions in connection with a lease under this section as the Administrator considers appropriate to protect the interests of the United States.

(d) Relationship to other lease authority. The authority under this section to lease property of NASA is in addition to any other authority to lease property of NASA under law.

(e) Lease Restrictions.—

(1) NASA is not authorized to lease back property under this section during the term of the out-lease or enter into other contracts with the lessee respecting the property.

(2) NASA is not authorized to enter into an out-lease under this section unless the Administrator certifies that such out-lease will not have a negative impact on NASA's mission.⁶¹

(f) Sunset.—The authority to enter into leases under this section shall expire on the date that is ten years after the date of the enactment of the Commerce, Justice, Science, and Related Agencies Appropriations Act of 2008. The expiration under this subsection of authority to enter into leases under this section shall not affect the validity or term of leases or NASA's retention of proceeds from leases entered into under this section before the date of the expiration of such authority.⁶²

Certification.

42 U.S.C. § 2459k.

RETROCESSION OF JURISDICTION⁶³

Sec. 316. (a) Notwithstanding any other provision of law, the Administrator may relinquish to a State all or part of the legislative jurisdiction of the United States over lands or interests under the control of the Administrator in that State.

(b) For purposes of this section, the term 'State' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other commonwealth, territory, or possession of the United States.

42 U.S.C. § 2459l.

RECOVERY AND DISPOSITION AUTHORITY⁶⁴

Sec. 317. (a) In General. —

(1) Control of remains.— Subject to paragraphs (2) and (3), when there is an accident or mishap resulting in the death of a crewmember of a NASA human space flight vehicle, the Administrator may take control over the remains of the crewmember and order autopsies and other scientific or medical tests.

(2) Treatment.—Each crewmember shall provide the Administrator with his or her preferences regarding the treatment accorded to his or her remains and the Administrator shall, to the extent possible, respect those stated preferences.

(3) Construction.—This section shall not be construed to permit the Administrator to interfere with any Federal investigation of a mishap or accident.

(b) Definitions.—In this section:

(1) Crewmember.—The term 'crewmember' means an astronaut or other person assigned to a NASA human space flight vehicle.

(2) NASA human space flight vehicle.—The term 'NASA human space flight vehicle' means a space vehicle, as defined in section 308(f)(1), that

(A) is intended to transport 1 or more persons;

(B) is designed to operate in outer space; and

(C) is either owned by NASA, or owned by a NASA contractor or cooperating party and operated as part of a NASA mission or a joint mission with NASA.

⁶¹ Subsection (e) was amended by Pub. L. No. 110-161, 121 Stat. 1844, Sec. 533. (c), on Dec. 26, 2007, (1) by striking "LEASE RESTRICTIONS.—NASA" and inserting the following: "LEASE RESTRICTIONS.—“(1) NASA”"; and (2) by adding at the end the following new paragraph: “(2) NASA is not authorized to enter into an out-lease under this section unless the Administrator certifies that such out-lease will not have a negative impact on NASA's mission.”.

⁶² Subsection (f) was added by Pub. L. No. 110-161, 121 Stat. 1844, Sec. 533. (d), on Dec. 26, 2007.

⁶³ Section 316 was added by Pub. L. No. 109-155, Title IV, 119 Stat. 2935.

⁶⁴ Section 317 was added by Pub. L. No. 109-155, Title IV, 119 Stat. 2936.

TITLE IV-UPPER ATMOSPHERIC RESEARCH⁶⁵

PURPOSE AND POLICY

Sec. 401. (a) The purpose of this title is to authorize and direct the Administration to develop and carry out a comprehensive program of research, technology, and monitoring of the phenomena of the upper atmosphere so as to provide for an understanding of and to maintain the chemical and physical integrity of the Earth's upper atmosphere.

42 U.S.C. § 2481.

(b) The Congress declares that is the policy of the United States to undertake an immediate and appropriate research, technology, and monitoring program that will provide for understanding the physics and chemistry of the Earth's upper atmosphere.

DEFINITIONS

Sec. 402. For the purpose of this title the term "upper atmosphere" means that portion of the Earth's sensible atmosphere above the troposphere.

42 U.S.C. § 2482.

PROGRAM AUTHORIZED

Sec. 403. (a) In order to carry out the purposes of this title the Administration in cooperation with other Federal agencies, shall initiate and carry out a program of research, technology, monitoring, and other appropriate activities directed to understand the physics and chemistry of the upper atmosphere.

42 U.S.C. § 2483.

(b) In carrying out the provisions of this title the Administration shall—

(1) arrange for participation by the scientific and engineering community, of both the Nation's industrial organizations and institutions of higher education, in planning and carrying out appropriate research, in developing necessary technology and in making necessary observations and measurements;

(2) provide, by way of grant, contract, scholarships or other arrangements, to the maximum extent practicable and consistent with other laws, for the widest practicable and appropriate participation of the scientific and engineering community in the program authorized by this title; and

(3) make all results of the program authorized by this title available to the appropriate regulatory agencies and provide for the widest practicable dissemination of such results.

INTERNATIONAL COOPERATION

42 U.S.C. § 2483.

Sec. 404. In carrying out the provisions of this title, the Administration, subject to the direction of the President and after consultation with the Secretary of State, shall make every effort to enlist the support and cooperation of appropriate scientists and engineers of other countries and international organizations.

⁶⁵This title was added by section 8 of the National Aeronautics and Space Administration Authorization Act, 1976, Pub. L. No. 94-39, 89 Stat. 218. 222 (Jun. 19, 1975).

**Selected Statutory
Provisions
Applicable to NASA**

National Space Grant College and Fellowship Act
Title II, Pub. L. No. 100-147
101 Stat. 860, 869-875 (Oct. 30, 1987)
Codified at 42 U.S.C. §§ 2486-2486I

SEC. 2486. Congressional statement of findings

The Congress finds that -

- (1) the vitality of the Nation and the quality of life of the citizens of the Nation depend increasingly on the understanding, assessment, development, and utilization of space resources;
- (2) research and development of space science, space technology, and space commercialization will contribute to the quality of life, national security, and the enhancement of commerce;
- (3) the understanding and development of the space frontiers require a broad commitment and an intense involvement on the part of the Federal Government in partnership with State and local governments, private industry, universities, organizations, and individuals concerned with the exploration and utilization of space;
- (4) the National Aeronautics and Space Administration, through the national space grant college and fellowship program, offers the most suitable means for such commitment and involvement through the promotion of activities that will result in greater understanding, assessment, development, and utilization; and
- (5) Federal support of the establishment, development, and operation of programs and projects by space grant colleges, space grant regional consortia, institutions of higher education, institutes, laboratories, and other appropriate public and private entities is the most cost-effective way to promote such activities.

SEC. 2486a. Congressional statement of purpose

The purposes of this title are to -

- (1) increase the understanding, assessment, development, and utilization of space resources by promoting a strong educational base, responsive research and training activities, and broad and prompt dissemination of knowledge and techniques;
- (2) utilize the abilities and talents of the universities of the Nation to support and contribute to the exploration and development of the resources and opportunities afforded by the space environment;
- (3) encourage and support the existence of interdisciplinary and multidisciplinary programs of space research within the university community of the Nation, to engage in integrated activities of training, research and public service, to have cooperative programs with industry, and to be coordinated with the overall program of the National Aeronautics and Space Administration;
- (4) encourage and support the existence of consortia, made up of university and industry members, to advance the exploration and development of space resources in cases in which national objectives can be better fulfilled than through the programs of single universities;
- (5) encourage and support Federal funding for graduate fellowships in fields related to space; and

(6) support activities in colleges and universities generally for the purpose of creating and operating a network of institutional programs that will enhance achievements resulting from efforts under this title.

SEC. 2486b. Definitions

As used in this title, the term -

- (1) "Administration" means the National Aeronautics and Space Administration;
- (2) "Administrator" means the Administrator of the National Aeronautics and Space Administration;
- (3) "aeronautical and space activities" has the meaning given to such term in section 103(1) of the National Aeronautics and Space Act of 1958 [42 U.S. C ~ 2452(1)I];
- (4) "field related to space" means any academic discipline or field of study (including the physical, natural, and biological sciences, and engineering, space technology, education, economics, sociology, communications, planning, law, international affairs, and public administration) which is concerned with or likely to improve the understanding, assessment, development, and utilization of space;
- (5) "panel" means the space grant review panel established pursuant to section 210 of this title (42 U.S. C § 2486h);
- (6) "Person" means any individual, any public or private corporation, partnership, or other association or entity (including any space grant college, space grant regional consortium, institution of higher education, institute, or laboratory), or any State, political subdivision of a State, or agency or officer of a State or political subdivision of a State;
- (7) "space environment" means the environment beyond the sensible atmosphere of the Earth;
- (8) "space grant college" means any public or private institution of higher education which is designated as such by the Administrator pursuant to section 208 of this title (42 U.S. C § 2486f);
- (9) "space grant program means any program which—
 - (A) is administered by any space grant college, space grant regional consortium, institution of higher education, institute, laboratory, or State or local agency; and
 - (B) includes two or more projects involving education and one or more of the following activities in the fields related to space—
 - (i) research,
 - (ii) training, or
 - (iii) advisory services;
- (10) "space grant regional consortium means any association or other alliance which is designated as such by the Administrator pursuant to section 208 of this title (42 U.S.C. § 24860;
- (11) "space resource" means any tangible or intangible benefit, which can only be realized from—
 - (A) aeronautical and space activities; or
 - (B) advancements in any field related to space; and
- (12) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or any other territory or possession of the United States.

SEC. 2486c. National space grant college and fellowship program

(a) Establishment; long-range guidelines and priorities; program evaluation

The Administrator shall establish and maintain, within the Administration, a program to be known as the national space grant college and fellowship program. The national space grant college and fellowship program shall consist of the financial assistance and other activities provided for in this title. The Administrator shall establish long-range planning guidelines and priorities, and adequately evaluate the program.

(b) Functions

Within the Administration, the program shall—

(1) apply the long-range planning guidelines and the priorities established by the Administrator under subsection (a) of this section;

(2) advise the Administrator with respect to the expertise and capabilities which are available through the national space grant college and fellowship program, and make such expertise available to the Administration as directed by the Administrator;

(3) evaluate activities conducted under grants and contracts awarded pursuant to sections 206 and 207 of this title (*42 U. S. C §§ 2486d and 2486e*) to assure that the purposes set forth in section 203 (*42 U.S. C § 2486a*) of this title are implemented;

(4) encourage other Federal departments, agencies, and instrumentalities to use and take advantage of the expertise and capabilities which are available through the national space grant college and fellowship program, on a cooperative or other basis;

(5) encourage cooperation and coordination with other Federal programs concerned with the development of space resources and fields related to space;

(6) advise the Administrator on the designation of recipients supported by the national space grant college and fellowship program and, in appropriate cases, on the termination or suspension of any such designation; and

(7) encourage the formation and growth of space grant and fellowship programs.

(c) Acceptance of gifts and donations; funds from other Federal agencies; issuance of rules and regulations

To carry out the provisions of this title, the Administrator may

(1) accept conditional or unconditional gifts or donations of services, money, or property, real, personal or mixed, tangible or intangible;

(2) accept and use funds from other Federal departments, agencies, and instrumentalities to pay for fellowships, grants, contracts, and other transactions; and

(3) issue such rules and regulations as may be necessary and appropriate.

SEC. 2486d. Grants or contracts

(a) Authority of Administrator; amount

The Administrator may make grants and enter into contracts or other transactions under this subsection to assist any space grant and fellowship program or project if the Administrator finds that such program or project will carry out the purposes set forth in section 203 of this title (*42 U.S. C § 2486a*). The total amount paid pursuant to any such grant or contract may equal 66 percent, or any lesser percent, of the total cost of the space grant and fellowship program or project involved, except that this limitation shall not apply in the case of grants or contracts paid for with funds accepted by the Administrator pursuant to section 205(c)(2) of this title [*42 US. C § 2486c(c)(2)*].

(b) Special grants; amount; prerequisites

The Administrator may make special grants under this subsection to carry out the purposes set forth in section 203 of this title (42 U.S.C. § 2486a). The amount of any such grant may equal 100 percent, or any lesser percent, of the total cost of the project involved. No grant may be made under this subsection, unless the Administrator finds that

- (1) no reasonable means is available through which the applicant can meet the matching requirement for a grant under subsection (a) of this section;
- (2) the probable benefit of such project outweighs the public interest in such matching requirement; and
- (3) the same or equivalent benefit cannot be obtained through the award of a contract or grant under subsection (a) of this section or section 207 of this title (42 U.S.C. § 2486e).

(c) Application

Any person may apply to the Administrator for a grant or contract under this section. Application shall be made in such form and manner, and with such content and other submissions, as the Administrator shall by regulation prescribe.

(d) Terms and conditions; limitations; leasing-, record-keeping-, audits

(1) Any grant made, or contract entered into, under this section shall be subject to the limitations and provisions set forth in paragraphs (2) and (3) of this subsection and to such other terms, conditions and requirements as the Administrator considers necessary or appropriate.

(2) No payment under any grant or contract under this section may be applied to-

- (A) the purchase of any land;
- (B) the purchase, construction, preservation, or repair of any building; or
- (C) the purchase or construction of any launch facility or launch vehicle.

(3) Notwithstanding paragraph (2) of this subsection, the items in subparagraphs (A), (B), and (C) of such paragraph may be leased upon written approval of the Administrator.

(4) Any person who receives or utilizes any proceeds of any grant or contract under this section shall keep such records as the Administrator shall by regulation prescribe as being necessary and appropriate to facilitate effective audit and evaluation, including records which fully disclose the amount and disposition by such recipient of such proceeds, the total cost of the program or project in connection with which such proceeds were used, and the amount, if any, of such cost which was provided through other sources. Such records shall be maintained for three years after the completion of such a program or project. The Administrator and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for the purpose of audit and evaluation, to any books, documents, papers and records of receipts which, in the opinion of the Administrator or the Comptroller General, may be related or pertinent to such grants and contracts.

SEC. 2486e. Identification of specific national needs and problems relating to space; grants or contracts with respect to such needs or problems, amount, application, terms and conditions

(a) The Administrator shall identify specific national needs and problems relating to space. The Administrator may make grants or enter into contracts under this section with respect to such needs or problems. The amount of any such grant or contract may equal 100 percent, or any lesser percent, of the total cost of the project involved.

(b) Any person may apply to the Administrator for a grant or contract under this section. In addition, the Administrator may invite applications with respect to specific national needs or problems identified under subsection (a) of this section. Application shall be made in such form and manner, and with such content and other submissions, as the Administrator shall by regulation prescribe. Any grant made, or contract entered into, under this section shall be subject to the limitations and provisions set forth in section 206(d) (2) and (4) of this title [42 U.S. C § 2486d(d)(2) and (4)] and to such other terms, conditions, and requirements as the Administrator considers necessary or appropriate.

SEC. 2486f. Space grant college and space grant regional consortium

(a) Designation qualifications

(1) The Administrator may designate -

(A) any institution of higher education as a space grant college; and

(B) any association or other alliance of two or more persons, other than individuals, as a space grant regional consortium.

(2) No institution of higher education may be designated as a space grant college, unless the Administrator finds that such institution

(A) is maintaining a balanced program of research, education, training, and advisory services in fields related to space;

(B) will act in accordance with such guidelines as are prescribed under subsection (b)(2) of this section; and

(C) meets such other qualifications as the Administrator considers necessary or appropriate.

(3) No association or other alliance of two or more persons may be designated as a space grant regional consortium, unless the Administrator finds that such association or alliance-

(A) is established for the purpose of sharing expertise, research, educational facilities or training facilities, and other capabilities in order to facilitate research, education, training, and advisory services, in any field related to space;

(B) will encourage and follow a regional approach to solving problems or meeting needs relating to space, in cooperation with appropriate space grant colleges, space grant programs, and other persons in the region;

(C) will act in accordance with such guidelines as are prescribed under subsection (b)(2) of this section; and

(D) meets such other qualifications as the Administrator considers necessary or appropriate.

(b) Other necessary qualifications and guidelines on activities and responsibilities; regulations

The Administrator shall by regulation prescribe-

- (1) the qualifications required to be met under subsection (a)(2)(C) and (3)(D) of this section; and
- (2) guidelines relating to the activities and responsibilities of space grant colleges and space grant regional consortia.

(c) Suspension or termination of designation; hearing

The Administrator may, for cause and after an opportunity for hearing, suspend or terminate any designation under subsection (a) of this section.

SEC. 2486g. Space grant fellowship program

(a) Award of fellowships; guidelines; wide geographic and institutional diversity

The Administrator shall support a space grant fellowship program to provide educational and training assistance to qualified individuals at the graduate level of education in fields related to space. Such fellowships shall be awarded pursuant to guidelines established by the Administrator. Space grant fellowships shall be awarded to individuals at space grant colleges, space grant regional consortia, other colleges and institutions of higher education, professional associations, and institutes in such a manner as to assure wide geographic and institutional diversity in the pursuit of research under the fellowship program.

(b) Limitation on amount to provide grants

The total amount which may be provided for grants under the space grant fellowship program during any fiscal year shall not exceed an amount equal to 50 percent of the total funds appropriated for such year pursuant to this title.

(c) Authority to sponsor other research fellowship programs unaffected

Nothing in this section shall be construed to prohibit the Administrator from sponsoring any research fellowship program, including any special emphasis program, which is established under an authority other than this title.

SEC. 2486h. Space grant review panel

(a) Establishment

The Administrator shall establish an independent committee known as the space grant review panel, which shall not be subject to the provisions of the Federal Advisory Committee Act (5 U.S. C App. 1 *et seq.*; *Public Law 92-463*).

(b) Duties

The panel shall take such steps as may be necessary to review, and shall advise the Administrator with respect to-

- (1) applications or proposals for, and performance under, grants and contracts awarded pursuant to sections 206 and 207 of this title (42 U.S. C §§ 2486d and 2486e);
- (2) the space grant fellowship program;
- (3) the designation and operation of space grant colleges and space grant regional consortia, and the operation of space grant and fellowship programs;
- (4) the formulation and application of the planning guidelines and priorities pursuant to section 205(a) and (b)(1) of this title [42 US. C § 2486c(a) and (b)(1)]; and
- (5) such other matters as the Administrator refers to the panel for review and advice.

(c) Personnel and administrative services

The Administrator shall make available to the panel any information, personnel and administrative services and assistance which is reasonable to carry out the duties of the panel.

(d) Appointment of voting members; Chairman and Vice Chairman; reimbursement of non-Federal employee members; meetings; powers

(1) The Administrator shall appoint the voting members of the panel. A majority of the voting members shall be individuals who, by reason of knowledge, experience, or training, are especially qualified in one or more of the disciplines and fields related to space. The other voting members shall be individuals who, by reason of knowledge, experience or training, are especially qualified in, or representative of, education, extension services, State government, industry, economics, planning, or any other activity related to efforts to enhance the understanding, assessment, development, or utilization of space resources. The Administrator shall consider the potential conflict of interest of any individual in making appointments to the panel.

(2) The Administrator shall select one voting member to serve as the Chairman and another voting member to serve as the Vice Chairman. The Vice Chairman shall act as Chairman in the absence or incapacity of the Chairman.

(3) Voting members of the panel who are not Federal employees shall be reimbursed for actual and reasonable expenses incurred in the performance of such duties.

(4) The panel shall meet on a biannual basis and, at any other time, at the call of the Chairman or upon the request of a majority of the voting members or of the Administrator.

(5) The panel may exercise such powers as are reasonably necessary in order to carry out the duties enumerated in subsection (b) of this section.

SEC. 2486i. Availability of other Federal personnel and data; cooperation with Administration

Each department, agency or other instrumentality of the Federal Government which is engaged in or concerned with, or which has authority over, matters relating to space

(1) may, upon a written request from the Administrator, make available, on a reimbursable basis or otherwise, any personnel (with their consent and without prejudice to their position and rating), service, or facility which the Administrator considers necessary to carry out any provision of this title;

(2) may, upon a written request from the Administrator, furnish any available data or other information which the Administrator considers necessary to carry out any provision of this title; and

(3) may cooperate with the Administration.

SEC. 2486j. Reports to Congress and President; comments and recommendations

[Repealed by Pub. L. No. 105-362, Title XL § 1101 (a), 112 Stat. 3280, 3292 (Nov. 10, 1998).]

SEC. 2486k. Designation or award to be on competitive basis

The Administrator shall not under this title designate any space grant college or space grant regional consortium or award any fellowship, grant, or contract unless such designation or award is made in accordance with the competitive, merit-based review process employed by the Administration on the date of enactment of this Act.

SEC. 2486l. Authorization of appropriations

(a) There are authorized to be appropriated for the purposes of carrying out the provisions of this title sums not to exceed—

(1) \$10,000,000 for each of fiscal years 1988 and 1989; and

(2) \$15,000,000 for each of fiscal years 1990 and 1991.

(b) Such sums as may be appropriated under this section shall remain available until expended.

15 U.S.C. § 3710 Utilization of Federal Technology-Cooperative Research and Development Agreements (CRDAs)

(a) Policy

(1) It is the continuing responsibility of the Federal Government to ensure the full use of the results of the Nation's Federal investment in research and development. To this end the Federal Government shall strive where appropriate to transfer federally owned or originated technology to State and local governments and to the private sector.

(2) Technology transfer, consistent with mission responsibilities, is a responsibility of each laboratory science and engineering professional.

(3) Each laboratory director shall ensure that efforts to transfer technology are considered positively in laboratory job descriptions, employee promotion policies, and evaluation of the job performance of scientists and engineers in the laboratory.

(b) Establishment of Research and Technology Applications Offices

Each Federal laboratory shall establish an Office of Research and Technology Applications. Laboratories having existing organizational structures which perform the functions of this section may elect to combine the Office of Research and Technology Applications within the existing organization. The staffing and funding levels for these offices shall be determined between each Federal laboratory and the Federal agency operating or directing the laboratory, except that (1) each laboratory having 200 or more full-time equivalent scientific, engineering, and related technical positions shall provide one or more full-time equivalent positions as staff for its Office of Research and Technology Applications, and (2) each Federal agency which operates or directs one or more Federal laboratories shall make available sufficient funding, either as a separate line item or from the agency's research and development budget, to support the technology transfer function at the agency and at its laboratories, including support of the Offices of Research and Technology Applications.

Furthermore, individuals filling positions in an Office of Research and Technology Applications shall be included in the overall laboratory/agency management development program so as to ensure that highly competent technical managers are full participants in the technology transfer process.

The agency head shall submit to Congress at the time the President submits the budget to Congress an explanation of the agency's technology transfer program for the preceding year and the agency's plans for conducting its technology transfer function for the upcoming year, including plans for securing intellectual property rights in laboratory innovations with commercial promise and plans for managing such innovations so as to benefit the competitiveness of United States industry.

(c) Functions of Research and Technology Applications Offices

It shall be the function of each Office of Research and Technology Applications

(1) to prepare application assessments for selected research and development projects in which that laboratory is engaged and which in the opinion of the laboratory may have potential commercial applications;

(2) to provide and disseminate information on federally owned or originated prod-

ucts, processes, and services having potential application to State and local governments and to private industry;

(3) to cooperate with and assist the National Technical Information Service, the Federal Laboratory Consortium for Technology Transfer, and other organizations which link the research and development resources of that laboratory and the Federal Government as a whole to potential users in State and local government and private industry;

(4) to provide technical assistance to State and local government officials;
and

(5) to participate, where feasible, in regional, State, and local programs designed to facilitate or stimulate the transfer of technology for the benefit of the region, State, or local jurisdiction in which the Federal laboratory is located.

Agencies which have established organizational structures outside their Federal laboratories, which have as their principal purpose the transfer of federally owned or originated technology to State and local government and to the private sector may elect to perform the functions of this subsection in such organizational structures. No Office of Research and Technology Applications or other organizational structures performing the functions of this subsection shall substantially compete with similar services available in the private sector.

(d) Dissemination of technical information

The National Technical Information Service shall

- (1) serve as a central clearinghouse for the collection, dissemination and transfer of information on federally owned or originated technologies having potential application to State and local governments and to private industry;
- (2) utilize the expertise and services of the National Science Foundation and the Federal Laboratory Consortium for Technology Transfer, particularly in dealing with State and local governments;
- (3) receive requests for technical assistance from State and local governments, respond to such requests with published information available to the Service, and refer such requests to the Federal Laboratory Consortium for Technology Transfer to the extent that such requests require a response involving more than the published information available to the Service;
- (4) provide funding, at the discretion of the Secretary, for Federal laboratories to provide the assistance specified in subsection (c) (3) of this section;
- (5) use appropriate technology transfer mechanisms such as personnel exchanges and computer-based systems; and
- (6) maintain a permanent archival repository and clearinghouse for the collection and dissemination of nonclassified scientific, technical, and engineering information.

(e) Establishment of Federal Laboratory Consortium for Technology Transfer

(1) There is hereby established the Federal Laboratory Consortium for Technology Transfer (hereinafter referred to as the "Consortium") which, in cooperation with Federal laboratories and the private sector, shall

- (A) develop and (with the consent of the Federal laboratory concerned) administer techniques, training courses, and materials concerning technology transfer to increase the awareness of Federal laboratory employees regarding the commercial potential of laboratory technology and innovations;
- (B) furnish advice and assistance requested by Federal agencies and laboratories

for use in their technology transfer programs (including the planning of seminars for small business and other industry);

(C) provide a clearinghouse for requests, received at the laboratory level, for technical assistance from States and units of local governments, businesses, industrial development organizations, not-for-profit organizations including universities, Federal agencies and laboratories, and other persons, and

(i) to the extent that such requests can be responded to with published information available to the National Technical Information Service, refer such requests to that Service, and

(ii) otherwise refer these requests to the appropriate Federal laboratories and agencies;

(D) facilitate communication and coordination between Offices of Research and Technology Applications of Federal laboratories;

(E) utilize (with the consent of the agency involved) the expertise and services of the National Science Foundation, the Department of Commerce, the National Aeronautics and Space Administration, and other Federal agencies, as necessary;

(F) with the consent of any Federal laboratory, facilitate the use by such laboratory of appropriate technology transfer mechanisms such as personnel exchanges and computer-based systems;

(G) with the consent of any Federal laboratory, assist such laboratory to establish programs using technical volunteers to provide technical assistance to communities related to such laboratory;

(H) facilitate communication and cooperation between Offices of Research and Technology Applications of Federal laboratories and regional, State, and local technology transfer organizations;

(I) when requested, assist colleges or universities, businesses, nonprofit organizations, State or local governments, or regional organizations to establish programs to stimulate research and to encourage technology transfer in such areas as technology program development, curriculum design, long-term research planning, personnel needs projections, and productivity assessments;

(J) seek advice in each Federal laboratory consortium region from representatives of State and local governments, large and small business, universities, and other appropriate persons on the effectiveness of the program (and any such advice shall be provided at no expense to the Government); and (K) work with the Director of the National Institute on Disability and Rehabilitation Research to compile a compendium of current and projected Federal Laboratory technologies and projects that have or will have an intended or recognized impact on the available range of assistive technology for individuals with disabilities (as defined in section 3002 of Title 29), including technologies and projects that incorporate the principles of universal design (as defined in section 3002 of Title 29), as appropriate.

(2) The membership of the Consortium shall consist of the Federal laboratories described in clause (1) of subsection (b) of this section and such other laboratories as may choose to join the Consortium. The representatives to the Consortium shall include a senior staff member of each Federal laboratory which is a member of the

Consortium and a senior representative appointed from each Federal agency with one

or more member laboratories.

(3) The representatives to the Consortium shall elect a Chairman of the Consortium. (4) The Director of the National Institute of Standards and Technology shall provide the Consortium, on a reimbursable basis, with administrative services, such as office space, personnel, and support services of the Institute, as requested by the Consortium and approved by such Director.

(5) Each Federal laboratory or agency shall transfer technology directly to users or representatives of users, and shall not transfer technology directly to the Consortium. Each Federal laboratory shall conduct and transfer technology only in accordance with the practices and policies of the Federal agency which owns, leases, or otherwise uses such Federal laboratory.

(6) Not later than one year after October 20, 1986, and every year thereafter, the Chairman of the Consortium shall submit a report to the President, to the appropriate authorization and appropriation committees of both Houses of the Congress, and to each agency with respect to which a transfer of funding is made (for the fiscal year or years involved) under paragraph (7), concerning the activities of the Consortium and the expenditures made by it under this subsection during the year for which the report is made. Such report shall include an annual independent audit of the financial statements of the Consortium, conducted in accordance with generally accepted accounting principles.

(7) (A) Subject to subparagraph (B), an amount equal to 0.008 percent of the budget of each Federal agency from any Federal source, including related overhead, that is to be utilized by or on behalf of the laboratories of such agency for a fiscal *year* referred to in subparagraph (B)(ii) shall be transferred by such agency to the National Institute of Standards and Technology at the beginning of the fiscal year involved. Amounts so transferred shall be provided by the Institute to the Consortium for the purpose of carrying out activities of the Consortium under this subsection.

(B) A transfer shall be made by any Federal agency under subparagraph (A), for any fiscal year, only if the amount so transferred by that agency (as determined under such subparagraph) would exceed \$10,000.

(C) The heads of Federal agencies and their designees, and the directors of Federal laboratories, may provide such additional support for operations of the Consortium as they deem appropriate.

(f) Repealed. Pub. L. 104-66, Title III, § 3001(f), Dec. 21, 1995, 109 Stat. 734.

(g) Functions of Secretary

(1) The Secretary, through the Under Secretary, and in consultation with other Federal agencies, may

(A) make available to interested agencies the expertise of the Department of Commerce regarding the commercial potential of inventions and methods and options for commercialization which are available to the Federal laboratories, including research and development limited partnerships;

(B) develop and disseminate to appropriate agency and laboratory personnel model provisions for use on a voluntary basis in cooperative research and development arrangements; and

(C) furnish advice and assistance, upon request, to Federal agencies concerning their cooperative research and development programs and projects.

(2) Two years after October 20, 1986 and every two years thereafter, the Secretary shall submit a summary report to the President and the Congress on the use by the agencies and the Secretary of the authorities specified in this chapter. Other Federal agencies shall cooperate in the report's preparation.

(3) Not later than one year after October 20, 1986, the Secretary shall submit to the President and the Congress a report regarding-

(A) any copyright provisions or other types of barriers which tend to restrict or limit the transfer of federally funded computer software to the private sector and to State and local governments, and agencies of such State and local governments; and (B) the feasibility and cost of compiling and maintaining a current and comprehensive inventory of all federally funded training software.

(h) Repealed. Pub. L. 100-519, Title II, § 212(a)(4), Oct. 24, 1988, 102 Stat. 2595.

(i) Research equipment

The Director of a laboratory, or the head of any Federal agency or department, may loan, lease, or give research equipment that is excess to the needs of the laboratory, agency, or department to an educational institution or nonprofit organization for the conduct of technical and scientific education and research activities. Title of ownership shall transfer with a gift under the section.

15 U.S.C. § 5806 Anchor tenancy and termination liability

(a) Anchor tenancy contracts

Subject to appropriations, the Administrator or the Administrator of the National Oceanic and Atmospheric Administration may enter into multiyear anchor tenancy contracts for the purchase of a good or service if the appropriate Administrator determines that—

- (1) the good or service meets the mission requirements of the National Aeronautics and Space Administration or the National Oceanic and Atmospheric Administration, as appropriate;
- (2) the commercially procured good or service is cost effective;
- (3) the good or service is procured through a competitive process;
- (4) existing or potential customers for the good or service other than the United States Government have been specifically identified;
- (5) the long-term viability of the venture is not dependent upon a continued Government market or other nonreimbursable Government support; and
- (6) private capital is at risk in the venture.

(b) Termination liability

- (1) Contracts entered into under subsection (a) of this section may provide for the payment of termination liability in the event that the Government terminates such contracts for its convenience.
- (2) Contracts that provide for the payment of termination liability, as described in paragraph (1), shall include a fixed schedule of such termination liability payments. Liability

under such contracts shall not exceed the total payments which the Government would have made after the date of termination to purchase the good or service if the contract were not terminated.

(3) Subject to appropriations, funds available for such termination liability payments may be used for purchase of the good or service upon successful delivery of the good or service pursuant to the contract. In such case, sufficient funds shall remain available to cover any remaining termination liability.

(c) Limitations

(1) Contracts entered into under this section shall not exceed 10 years in duration. (2) Such contracts shall provide for delivery of the good or service on a firm, fixed price basis.

(3) To the extent practicable, reasonable performance specifications shall be used to define technical requirements in such contracts.

(4) In any such contract, the appropriate Administrator shall reserve the right to completely or partially terminate the contract without payment of such termination liability because of the contractor's actual or anticipated failure to perform its contractual obligations.

15 U.S.C. § 5807 Use of Government facilities

(a) Authority

Federal agencies, including the National Aeronautics and Space Administration and the Department of Defense, may allow non-Federal entities to use their space-related facilities on a reimbursable basis if the Administrator, the Secretary of Defense, or the appropriate agency head determines that

(1) the facilities will be used to support commercial space activities;

(2) such use can be supported by existing or planned Federal resources; (3) such use is compatible with Federal activities;

(4) equivalent commercial services are not available on reasonable terms; and

(5) such use is consistent with public safety, national security, and international treaty obligations.

In carrying out paragraph (5), each agency head shall consult with appropriate Federal officials.

(b) Reimbursement payment

(1) The reimbursement referred to in subsection (a) of this section may be an amount equal to the direct costs (including salaries of United States civilian and contractor personnel) incurred by the United States as a result of the use of such facilities by the private sector. For the purposes of this paragraph, the term "direct costs" means the actual costs that can be unambiguously associated with such use, and would not be borne by the United States Government in the absence of such use.

(2) The amount of any payment received by the United States for use of facilities under this subsection shall be credited to the appropriation from which the cost of providing such facilities was paid.

18 U.S.C. § 7 Special maritime and territorial jurisdiction of the United States defined

The term "special maritime and territorial jurisdiction of the United States", as used in this title, includes:

- (1) The high seas, any other waters within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular State, and any vessel belonging in whole or in part to the United States or any citizen thereof, or to any corporation created by or under the laws of the United States, or of any State, Territory, District, or possession thereof, when such vessel is within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular State.
- (2) Any vessel registered, licensed, or enrolled under the laws of the United States, and being on a voyage upon the waters of any of the Great Lakes, or any of the waters connecting them, or upon the Saint Lawrence River where the same constitutes the International Boundary Line.
- (3) Any lands reserved or acquired for the use of the United States, and under the exclusive or concurrent jurisdiction thereof, or any place purchased or otherwise acquired by the United States by consent of the legislature of the State in which the same shall be, for the erection of a fort, magazine, arsenal, dockyard, or other needful building.
- (4) Any island, rock, or key containing deposits of guano, which may, at the discretion of the President, be considered as appertaining to the United States.
- (5) Any aircraft belonging in whole or in part to the United States, or any citizen thereof, or to any corporation created by or under the laws of the United States, or any State, Territory, district, or possession thereof, while such aircraft is in flight over the high seas, or over *any* other waters within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular State.
- (6) Any vehicle used or designed for flight or navigation in space and on the registry of the United States pursuant to the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies and the Convention on Registration of Objects Launched into Outer Space, while that vehicle is in flight, which is from the moment when all external doors are closed on Earth following embarkation until the moment when one such door is opened on Earth for disembarkation or in the case of a forced landing, until the competent authorities take over the responsibility for the vehicle and for persons and property aboard.
- (7) Any place outside the jurisdiction of any nation with respect to an offense by or against a national of the United States.
- (8) To the extent permitted by international law, any foreign vessel during a voyage having a scheduled departure from or arrival in the United States with respect to an offense committed by or against a national of the United States.

18 U.S.C. § 1905 Disclosure of confidential information generally

Whoever, being an officer or employee of the United States or of any department or agency thereof, any person acting on behalf of the Office of Federal Housing Enterprise Oversight, or agent of the Department of Justice as defined in the Antitrust Civil Process Act (15 U.S.C. 1311-1314), publishes, divulges, discloses, or makes known in any manner or to any extent not authorized by law any information coming to him in the course of his employment or official duties or by reason of any examination or investigation made by, or return, report or record made to or filed with, such department or agency or officer or employee thereof, which information concerns or relates to the trade secrets, processes, operations, style of work, or apparatus, or to the identity, confidential statistical data, amount or source of any income, profits, losses, or expenditures of any person, firm, partnership, corporation, or association; or permits any income return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person except as provided by law; shall be fined under this title, or imprisoned not more than one year, or both; and shall be removed from office or employment.

35 U.S.C. § 105 Inventions in outer space

(a) Any invention made, used or sold in outer space on a space object or component thereof under the jurisdiction or control of the United States shall be considered to be made, used or sold within the United States for the purposes of this title, except with respect to any space object or component thereof that is specifically identified and otherwise provided for by an international agreement to which the United States is a party, or with respect to any space object or component thereof that is carried on the registry of a foreign state in accordance with the Convention on Registration of Objects Launched into Outer Space.

(b) Any invention made, used or sold in outer space on a space object or component thereof that is carried on the registry of a foreign state in accordance with the Convention on Registration of Objects Launched into Outer Space, shall be considered to be made, used or sold within the United States for the purposes of this title if specifically so agreed in an international agreement between the United States and the state of registry.

42 U.S.C. § 2459d Prohibition of grant or contract providing guaranteed customer base for new commercial space hardware or services

No amount appropriated to the National Aeronautics and Space Administration in this or any other Act with respect to any fiscal year may be used to fund grants, contracts or other agreements with an expected duration of more than one year, when a primary effect of the grant, contract, or agreement is to provide a guaranteed customer base for or establish an anchor tenancy in new commercial space hardware or services unless an appropriations Act specifies the new commercial space hardware or services to be developed or used, or the grant, contract, or agreement is otherwise identified in such Act.

42 U.S.C. § 2464 Recovery of fair value of placing Department of Defense payloads in orbit with Space Shuttle

Notwithstanding any other provision of law, or any interagency agreement, the Administrator of the National Aeronautics and Space Administration shall charge such prices as necessary to recover the fair value of placing Department of Defense payloads into orbit by means of the Space Shuttle.

42 U.S.C. § 2465a Space Shuttle use policy

(a) Use policy

- (1) It shall be the policy of the United States to use the Space Shuttle for purposes that (i) require the presence of man, (ii) require the unique capabilities of the Space Shuttle or (iii) when other compelling circumstances exist (2) The term "compelling circumstances" includes, but is not limited to, occasions when the Administrator determines, in consultation with the Secretary of Defense and the Secretary of State, that important national security or foreign policy interests would be served by a Shuttle launch.
- (3) The policy stated in subsection (a) (1) of this section shall not preclude the use of available cargo space, on a Space Shuttle mission otherwise consistent with the policy described under subsection (a)(1) of this section, for the purpose of carrying secondary payloads (as defined by the Administrator) that do not require the presence of man if such payloads are consistent with the requirements of research, development, demonstration, scientific, commercial, and educational programs authorized by the Administrator.

(b) Implementation plan

The Administrator shall, within six months after November 16, 1990, submit a report to the Congress setting forth a plan for the implementation of the policy described in subsection (a)(1) of this section. Such plan shall include

- (1) details of the implementation plan;
- (2) a list of purposes that meet such policy;
- (3) a proposed schedule for the implementation of such policy;
- (4) an estimate of the costs to the United States of implementing such policy; and
- (5) a process for informing the Congress in a timely and regular manner of how the plan is being implemented.

(c) Annual report

At least annually, the Administrator shall submit to the Congress a report certifying that the payloads scheduled to be launched on the space shuttle for the next four years are consistent with the policy set forth in subsection (a) (1) of this section. For each payload scheduled to be launched from the space shuttle which do not require the presence of man, the Administrator shall, in the certified report to Congress, state the specific circumstances which justified the use of the space shuttle. If, during the period between scheduled reports to the Congress, any additions are made to the list of certified payloads intended to be launched from the Shuttle, the Administrator shall inform the Congress of the additions and the reasons therefor within 45 days of the change.

(d) NASA payloads

The report described in subsection (c) of this section shall also include those National Aeronautics and Space Administration payloads designed solely to fly on the space shuttle which have begun the phase C/D of its development cycle.

42 U.S.C. § 2465c Definitions

For the purposes of this title—

(1) the term "launch vehicle" means any vehicle constructed for the purpose of operating in, or placing a payload in, outer space; and (2) the term "payload" means an object which a person undertakes to place in outer space by means of a launch vehicle, and includes sub-components of the launch vehicle specifically designed or adapted for that object.

42 U.S.C. § 2465f Other activities of National Aeronautics and Space Administration

Commercial payloads may not be accepted for launch as primary payloads on the space shuttle unless the Administrator of the National Aeronautics and Space Administration determines that—

(1) the payload requires the unique capabilities of the space shuttle; or
(2) launching of the payload on the space shuttle is important for either national security or foreign policy purposes.

42 U.S.C. § 2466 Shuttle pricing policy; Congressional findings and declaration of purpose

The Congress finds and declares that—

(1) the Space Transportation System is a vital element of the United States space program, contributing to the United States leadership in space research, technology, and development;
(2) the Space Transportation System is the primary space launch system for both United States national security and civil government missions;
(3) the Space Transportation System contributes to the expansion of United States private sector investment and involvement in space and therefore should serve commercial users;
(4) the availability of the Space Transportation System to foreign users for peaceful purposes is an important means of promoting international cooperative activities in the national interest and in maintaining access to space for activities which enhance the security and welfare of mankind;
(5) the United States is committed to maintaining world leadership in space transportation;
(6) making the Space Transportation System fully operational and cost effective in providing routine access to space will maximize the national economic benefits of the system; and
(7) national goals and the objectives for the Space Transportation System can be furthered by a stable and fair pricing policy for the Space Transportation System.

42 U.S.C. § 14713 Acquisition of space science data

(a) Acquisition from commercial providers

The Administrator shall, to the extent possible and while satisfying the scientific or educational requirements of the National Aeronautics and Space Administration, and where appropriate, of other Federal agencies and scientific researchers, acquire, where cost effective, space science data from a commercial provider.

(b) Treatment of space science data as commercial item under acquisition laws Acquisitions of space science data by the Administrator shall be carried out in accordance with applicable acquisition laws and regulations (including chapters 137 and 140 of title 10, United States Code). For purposes of such law and regulations, space science data shall be considered to be a commercial item. Nothing in this subsection shall be construed to preclude the United States from acquiring, through contracts with commercial providers, sufficient rights in data to meet the needs of the scientific and educational community or the needs of other government activities.

(c) Definition

For purposes of this section, the term “space science data” includes scientific data concerning—

- (1) the elemental and mineralogical resources of the moon, asteroids, planets and their moons, and comets;
- (2) microgravity acceleration; and
- (3) solar storm monitoring.

(d) Safety standards

Nothing in this section shall be construed to prohibit the Federal Government from requiring compliance with applicable safety standards.

(e) Limitation

This section does not authorize the National Aeronautics and Space Administration to provide financial assistance for the development of commercial systems for the collection of space science data.

42 U.S.C. § 14715 Sources of earth science data

(a) Acquisition

The Administrator shall, to the extent possible and while satisfying the scientific or educational requirements of the National Aeronautics and Space Administration, and where appropriate, of other Federal agencies and scientific researchers, acquire, where cost-effective, space-based and airborne Earth remote sensing data, services, distribution, and applications from a commercial provider.

(b) Treatment as commercial item under acquisition laws

Acquisitions by the Administrator of the data, services, distribution, and applications referred to in subsection (a) shall be carried out in accordance with applicable acquisition laws and regulations (including chapters 137 and 140 of title 10, United States Code). For purposes of such law and regulations, such data, services, distribution, and applications shall be considered to be a commercial item. Nothing in this subsection shall be construed to preclude the United States from acquiring, through contracts with commercial providers, sufficient rights in data to meet the needs of the scientific and educational community or the needs of other government activities.

(c) Study

(1) The Administrator shall conduct a study to determine the extent to which the baseline scientific requirements of Earth Science can be met by commercial providers, and how the National Aeronautics and Space Administration will meet such requirements which cannot be met by commercial providers. (2) The study conducted under this subsection shall—

(A) make recommendations to promote the availability of information from the National Aeronautics and Space Administration to commercial providers to enable commercial providers to better meet the baseline scientific requirements of Earth Science;

(B) make recommendations to promote the dissemination to commercial providers of information on advanced technology research and development performed by or for the National Aeronautics and Space Administration; and (C) identify policy, regulatory, and legislative barriers to the implementation of the recommendations made under this subsection.

(3) The results of the study conducted under this subsection shall be transmitted to the Congress within 6 months after the date of the enactment of this Act.

(d) Safety standards

Nothing in this section shall be construed to prohibit the Federal Government from requiring compliance with applicable safety standards.

(e) Administration and execution

This section shall be carried out as part of the Commercial Remote Sensing Program at the Stennis Space Center.

(f) [Omitted] (Pub. L. 105-303, Title I § 107, Oct. 28, 1998, 112 Stat. 2853.)

Commission on the Future of the United States Aerospace Industry
Pub. L. 106–398, § 1 [[div. A], title X, § 1092], Oct. 30, 2000, 114 Stat. 1654, 1654A–300, as
amended by Pub. L. 107–107, div. A, title X, § 1062, Dec. 28, 2001, 115 Stat. 1232
Codified at 42 U.S.C. § 2451 note

SEC. 2451

(a) Establishment.—There is established a commission to be known as the ‘Commission on the Future of the United States Aerospace Industry’ (in this section referred to as the ‘Commission’).

(b) Membership.—

(1) The Commission shall be composed of 12 members appointed, not later than March 1, 2001, as follows:

(A) Up to six members shall be appointed by the President.

(B) Two members shall be appointed by the Speaker of the House of Representatives.

(C) Two members shall be appointed by the majority leader of the Senate.

(D) One member shall be appointed by the minority leader of the Senate.

(E) One member shall be appointed by the minority leader of the House of Representatives.

(2) The members of the Commission shall be appointed from among persons with extensive experience and national reputations in aerospace manufacturing, economics, finance, national security, international trade, or foreign policy and persons who are representative of labor organizations associated with the aerospace industry.

(3) Members shall be appointed for the life of the Commission. A vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(4) The President shall designate one member of the Commission to serve as the chairman of the Commission.

(5) The Commission shall meet at the call of the chairman. A majority of the members shall constitute a quorum, but a lesser number may hold hearings.

(c) Duties.—

(1) The Commission shall—

(A) study the issues associated with the future of the United States aerospace industry in the global economy, particularly in relationship to United States national security; and

(B) assess the future importance of the domestic aerospace industry for the economic and national security of the United States.

(2) In order to fulfill its responsibilities, the Commission shall study the following:

(A) The budget process of the United States Government, particularly with a view to assessing the adequacy of projected budgets of the Federal departments and agencies for aerospace research and development and procurement.

(B) The acquisition process of the Government, particularly with a view to assessing—

(i) the adequacy of the current acquisition process of Federal departments and agencies; and

(ii) the procedures for developing and fielding aerospace systems incorporating new technologies in a timely fashion.

(C) The policies, procedures, and methods for the financing and payment of Government contracts.

(D) Statutes and regulations governing international trade and the export of technology, particularly with a view to assessing—

(i) the extent to which the current system for controlling the export of aerospace goods, services, and technologies reflects an adequate balance between the need to protect national security and the need to ensure unhindered access to the global marketplace; and

(ii) the adequacy of United States and multilateral trade laws and policies for maintaining the international competitiveness of the United States aerospace industry.

(E) Policies governing taxation, particularly with a view to assessing the impact of current tax laws and practices on the international competitiveness of the aerospace industry.

(F) Programs for the maintenance of the national space launch infrastructure, particularly with a view to assessing the adequacy of current and projected programs for maintaining the national space launch infrastructure.

(G) Programs for the support of science and engineering education, including current programs for supporting aerospace science and engineering efforts at institutions of higher learning, with a view to determining the adequacy of those programs.

(d) Report.—

(1) Not later than one year after the date of the first official meeting of the Commission, the Commission shall submit a report on its activities to the President and Congress.

(2) The report shall include the following:

(A) The Commission's findings and conclusions.

(B) The Commission's recommendations for actions by Federal departments and agencies to support the maintenance of a robust aerospace industry in the United States in the 21st century and any recommendations for statutory and regulatory changes to support the implementation of the Commission's findings.

(C) A discussion of the appropriate means for implementing the Commission's recommendations.

(e) Administrative Requirements and Authorities.—

(1) The Director of the Office of Management and Budget shall ensure that the Commission is provided such administrative services, facilities, staff, and other support services as may be necessary. Any expenses of the Commission shall be paid from funds available to the Director.

(2) The Commission may hold hearings, sit and act at times and places, take testimony, and receive evidence that the Commission considers advisable to carry out the purposes of this section.

(3) The Commission may request directly from any department or agency of the United States any information that the Commission considers necessary to carry out the provisions of this section. To the extent consistent with applicable requirements of law and regulations, the head of such department or agency shall furnish such information to the Commission.

(4) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(f) Commission Personnel Matters.—

(1) Members of the Commission shall serve without additional compensation for their service on the Commission, except that members appointed from among private citizens may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in Government service under subchapter I of chapter 57 of title 5, United States Code, while away from their homes and places of business in the performance of services for the Commission.

(2) The chairman of the Commission may appoint staff of the Commission, request the detail of Federal employees, and accept temporary and intermittent services in accordance with section 3161 of title 5, United States Code (as added by section 1101 of this Act).

(g) Termination.—The Commission shall terminate 60 days after the date of the submission of its report under subsection (d).”

International Space Station Contingency Plan

P.L. 106-391

Title II, 114 Stat. 1586 (Oct. 30, 2000)

Codified at 42 U.S.C. § 2451 note

SEC. 2451. International Space Station Contingency Plan.

(a) Bimonthly Reporting on Russian Status.—Not later than the first day of the first month beginning more than 60 days after the date of the enactment of this Act [Oct. 30, 2000], and not later than the first day of every second month thereafter until October 1, 2006, the Administrator [of the National Aeronautics and Space Administration] shall report to Congress whether or not the Russians have performed work expected of them and necessary to complete the International Space Station. Each such report shall also include a statement of the Administrator's judgment concerning Russia's ability to perform work anticipated and required to complete the International Space Station before the next report under this subsection.

(b) Decision on Russian Critical Path Items.—The President shall notify Congress within 90 days after the date of the enactment of this Act [Oct. 30, 2000] of the decision on whether or not to proceed with permanent replacement of any Russian elements in the critical path [as defined in section 3 of Pub. L. 106-391, 42 U.S.C. 2452 note] of the International Space Station or any Russian launch services. Such notification shall include the reasons and justifications for the decision and the costs associated with the decision. Such decision shall include a judgment of when all elements identified in Revision E assembly sequence as of June 1999 will be in orbit and operational. If the President decides to proceed with a permanent replacement for any Russian element in the critical path or any Russian launch services, the President shall notify Congress of the reasons and the justification for the decision to proceed with the permanent replacement and the costs associated with the decision.

(c) Assurances.—The United States shall seek assurances from the Russian Government that it places a higher priority on fulfilling its commitments to the International Space Station than it places on extending the life of the Mir Space Station, including assurances that Russia will not utilize assets allocated by Russia to the International Space Station for other purposes, including extending the life of Mir.

(d) Equitable Utilization.—In the event that any International Partner in the International Space Station Program willfully violates any of its commitments or agreements for the provision of agreed-upon Space Station-related hardware or related goods or services, the Administrator should, in a manner consistent with relevant international agreements, seek a commensurate reduction in the utilization rights of that Partner until such time as the violated commitments or agreements have been fulfilled.

(e) Operation Costs.—The Administrator shall, in a manner consistent with relevant international agreements, seek to reduce the National Aeronautics and Space Administration's share of International Space Station common operating costs, based upon any additional capabilities provided to the International Space Station through the National Aeronautics and Space Administration's Russian Program Assurance activities.

Cost Limitation for the International Space Station

(a) Limitation of Costs.—

(1) In general.—Except as provided in subsections (c) and (d), the total amount obligated by the National Aeronautics and Space Administration for—

(A) costs of the International Space Station may not exceed \$25,000,000,000; and

(B) space shuttle launch costs in connection with the assembly of the International Space Station may not exceed \$17,700,000,000.

(2) Calculation of launch costs.—For purposes of paragraph (1)(B)—

(A) not more than \$380,000,000 in costs for any single space shuttle launch shall be taken into account; and

(B) if the space shuttle launch costs taken into account for any single space shuttle launch are less than \$380,000,000, then the Administrator [of the National Aeronautics and Space Administration] shall arrange for a verification, by the General Accounting Office, of the accounting used to determine those costs and shall submit that verification to the Congress within 60 days after the date on which the next budget request is transmitted to the Congress.

(b) Costs to Which Limitation Applies.—

(1) Development costs.—The limitation imposed by subsection (a)(1)(A) does not apply to funding for operations, research, or crew return activities subsequent to substantial completion of the International Space Station.

(2) Launch costs.—The limitation imposed by subsection (a)(1)(B) does not apply—

(A) to space shuttle launch costs in connection with operations, research, or crew return activities subsequent to substantial completion of the International Space Station;

(B) to space shuttle launch costs in connection with a launch for a mission on which at least 75 percent of the shuttle payload by mass is devoted to research; nor

(C) to any additional costs incurred in ensuring or enhancing the safety and reliability of the space shuttle.

(3) Substantial completion.—For purposes of this subsection, the International Space Station is considered to be substantially completed when the development costs comprise 5 percent or less of the total International Space Station costs for the fiscal year.

(c) Notice of Changes to Space Station Costs.—The Administrator shall provide with each annual budget request a written notice and analysis of any changes under subsection (d) to the amounts set forth in subsection (a) to the Senate Committees on Appropriations and on Commerce, Science, and Transportation and to the House of Representatives Committees on Appropriations and on Science. In addition, such notice may be provided at other times, as deemed necessary by the Administrator. The written notice shall include—

(1) an explanation of the basis for the change, including the costs associated with the change and the expected benefit to the program to be derived from the change;

(2) an analysis of the impact on the assembly schedule and annual funding estimates of not receiving the requested increases; and

(3) an explanation of the reasons that such a change was not anticipated in previous program budgets.

(d) Funding for Contingencies.—

(1) Notice required.—If funding in excess of the limitation provided for in subsection (a) is required to address the contingencies described in paragraph (2), then the Administrator shall provide the written notice required by subsection (c). In the case of funding described in paragraph (3)(A), such notice shall be required prior to obligating any of the funding. In the case of funding described in paragraph (3)(B), such notice shall be required within 15 days after making a decision to implement a change that increases the space shuttle launch costs in connection with the assembly of the International Space Station.

(2) Contingencies.—The contingencies referred to in paragraph (1) are the following:

(A) The lack of performance or the termination of participation of any of the International countries party to the Intergovernmental Agreement.

(B) The loss or failure of a United States-provided element during launch or on-orbit.

(C) On-orbit assembly problems.

(D) New technologies or training to improve safety on the International Space Station.

(E) The need to launch a space shuttle to ensure the safety of the crew or to maintain the integrity of the station.

(3) Amounts.—The total amount obligated by the National Aeronautics and Space Administration to address the contingencies described in paragraph (2) is limited to—

(A) \$5,000,000,000 for the International Space Station; and

(B) \$3,540,000,000 for the space shuttle launch costs in connection with the assembly of the International Space Station.

(e) Reporting and Review.—

(1) Identification of costs.—

(A) Space shuttle.—As part of the overall space shuttle program budget request for each fiscal year, the Administrator shall identify separately—

(i) the amounts of the requested funding that are to be used for completion of the assembly of the International Space Station; and

(ii) any shuttle research mission described in subsection (b)(2).

(B) International space station.—As part of the overall International Space Station budget request for each fiscal year, the Administrator shall identify the amount to be used for development of the International Space Station.

(2) Accounting for cost limitations.—As part of the annual budget request to the Congress, the Administrator shall account for the cost limitations imposed by subsection (a).

(3) Verification of accounting.—The Administrator shall arrange for a verification, by the General Accounting Office, of the accounting submitted to the Congress within 60 days after the date on which the budget request is transmitted to the Congress.

(4) Inspector general.—Within 60 days after the Administrator provides a notice and analysis to the Congress under subsection (c), the Inspector General of the National Aeronautics and Space Administration shall review the notice and analysis and report the results of the review to the committees to which the notice and analysis were provided.

Research on International Space Station

(a) Study.—The Administrator [of the National Aeronautics and Space Administration] shall enter into a contract with the National Research Council and the National Academy of Public Administration to jointly conduct a study of the status of life and microgravity research as it relates to the International Space Station. The study shall include—

(1) an assessment of the United States scientific community's readiness to use the International Space Station for life and microgravity research;

(2) an assessment of the current and projected factors limiting the United States scientific community's ability to maximize the research potential of the International Space Station, including, but not limited to, the past and present availability of resources in the life and microgravity research accounts within the Office of Human Spaceflight and the Office of Life and Microgravity Sciences and Applications and the past, present, and projected access to space of the scientific community; and

(3) recommendations for improving the United States scientific community's ability to maximize the research potential of the International Space Station, including an assessment of the relative costs and benefits of—

(A) dedicating an annual mission of the Space Shuttle to life and microgravity research during assembly of the International Space Station; and

(B) maintaining the schedule for assembly in place at the time of the enactment [Oct. 30, 2000].

(b) Report.—Not later than 1 year after the date of the enactment of this Act [Oct. 30, 2000], the Administrator shall transmit to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study conducted under this section.

Space Station Research Utilization and Commercialization Management

(a) Research Utilization and Commercialization Management Activities.—The Administrator of the National Aeronautics and Space Administration shall enter into an agreement with a non-government organization to conduct research utilization and commercialization management activities of the International Space Station subsequent to substantial completion as defined in section 202 (b)(3). The agreement may not take effect less than 120 days after the implementation plan for the agreement is submitted to the Congress under subsection (b).

(b) Implementation Plan.—Not later than September 30, 2001, the Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives an implementation plan to incorporate the use of a non-government organization for the International Space Station. The implementation plan shall include—

(1) a description of the respective roles and responsibilities of the Administration and the non-government organization;

(2) a proposed structure for the non-government organization;

(3) a statement of the resources required;

(4) a schedule for the transition of responsibilities; and

(5) a statement of the duration of the agreement.

Aero-Space Transportation Technology Integration
Pub. L. 106–391, title III, § 308, Oct. 30, 2000, 114 Stat. 1592
Codified at 42 U.S.C. § 2451 note

SEC. 2451

(a) Integration Plan.—The Administrator [of the National Aeronautics and Space Administration] shall develop a plan for the integration of research, development, and experimental demonstration activities in the aeronautics transportation technology and space transportation technology areas where appropriate. The plan shall ensure that integration is accomplished without losing unique capabilities which support the National Aeronautics and Space Administration’s defined missions. The plan shall also include appropriate strategies for using aeronautics centers in integration efforts.

(b) Reports to Congress.—Not later than 90 days after the date of the enactment of this Act [Oct. 30, 2000], the Administrator shall transmit to the Congress a report containing the plan developed under subsection (a). The Administrator shall transmit to the Congress annually thereafter for 5 years a report on progress in achieving such plan, to be transmitted with the annual budget request.

Innovative Technologies for Human Space Flight
Pub. L. 106–391, title III, § 313, Oct. 30, 2000, 114 Stat. 1594
Codified at 42 U.S.C. § 2451 note

SEC. 2451:

(a) Establishment of Program.—In order to promote a ‘faster, cheaper, better’ approach to the human exploration and development of space, the Administrator [of the National Aeronautics and Space Administration] shall establish a Human Space Flight Innovative Technologies program of ground-based and space-based research and development in innovative technologies. The program shall be part of the Technology and Commercialization program.

(b) Awards.—At least 75 percent of the amount appropriated for Technology and Commercialization under section 101 (b)(4) [114 Stat. 1581] for any fiscal year shall be awarded through broadly distributed announcements of opportunity that solicit proposals from educational institutions, industry, nonprofit institutions, National Aeronautics and Space Administration Centers, the Jet Propulsion Laboratory, other Federal agencies, and other interested organizations, and that allow partnerships among any combination of those entities, with evaluation, prioritization, and recommendations made by external peer review panels.

(c) Plan.—The Administrator shall provide to the Committee on Science of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate, not later than December 1, 2000, a plan to implement the program established under subsection (a).

Life in the Universe
Pub. L. 106–391, title III, § 314, Oct. 30, 2000, 114 Stat. 1595
Codified at 42 U.S.C. § 2451 note

SEC. 2451

(a) Review.—The Administrator [of the National Aeronautics and Space Administration] shall enter into appropriate arrangements with the National Academy of Sciences for the conduct of a review of—

(1) international efforts to determine the extent of life in the universe; and

(2) enhancements that can be made to the National Aeronautics and Space Administration’s efforts to determine the extent of life in the universe.

(b) Elements.—The review required by subsection (a) shall include—

(1) an assessment of the direction of the National Aeronautics and Space Administration’s astrobiology initiatives within the Origins program;

(2) an assessment of the direction of other initiatives carried out by entities other than the National Aeronautics and Space Administration to determine the extent of life in the universe, including other Federal agencies, foreign space agencies, and private groups such as the Search for Extraterrestrial Intelligence Institute;

(3) recommendations about scientific and technological enhancements that could be made to the National Aeronautics and Space Administration’s astrobiology initiatives to effectively utilize the initiatives of the scientific and technical communities; and

(4) recommendations for possible coordination or integration of National Aeronautics and Space Administration initiatives with initiatives of other entities described in paragraph (2).

(c) Report to Congress.—Not later than 20 months after the date of the enactment of this Act [Oct. 30, 2000], the Administrator shall transmit to the Congress a report on the results of the review carried out under this section.

Carbon Cycle Remote Sensing Applications Research
Pub. L. 106–391, title III, § 315, Oct. 30, 2000, 114 Stat. 1595
Codified at 42 U.S.C. § 2451 note

SEC. 2451

(a) Carbon Cycle Remote Sensing Applications Research Program.—

(1) In general.—The Administrator [of the National Aeronautics and Space Administration] shall develop a carbon cycle remote sensing applications research program—

- (A) to provide a comprehensive view of vegetation conditions;
- (B) to assess and model agricultural carbon sequestration; and
- (C) to encourage the development of commercial products, as appropriate.

(2) Use of centers.—The Administrator of the National Aeronautics and Space Administration shall use regional earth science application centers to conduct applications research under this section.

(3) Researched areas.—The areas that shall be the subjects of research conducted under this section include—

- (A) the mapping of carbon-sequestering land use and land cover;
- (B) the monitoring of changes in land cover and management;
- (C) new approaches for the remote sensing of soil carbon; and
- (D) region-scale carbon sequestration estimation.

(b) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section \$5,000,000 of funds authorized by section 102 [114 Stat. 1581] for fiscal years 2001 through 2002.

100th Anniversary of Flight Educational Initiative
Pub. L. 106–391, title III, § 317, Oct. 30, 2000, 114 Stat. 1596
Codified at 42 U.S.C. § 2451 note

SEC.2451

(a) Educational Initiative.—In recognition of the 100th anniversary of the first powered flight, the Administrator [of the National Aeronautics and Space Administration], in coordination with the Secretary of Education, shall develop and provide for the distribution, for use in the 2001–2002 academic year and thereafter, of age-appropriate educational materials, for use at the kindergarten, elementary, and secondary levels, on the history of flight, the contribution of flight to global development in the 20th century, the practical benefits of aeronautics and space flight to society, the scientific and mathematical principles used in flight, and any other related topics the Administrator considers appropriate. The Administrator shall integrate into the educational materials plans for the development and flight of the Mars plane.

(b) Report to Congress.—Not later than December 1, 2000, the Administrator shall transmit a report to the Congress on activities undertaken pursuant to this section.

National Aeronautics and Space Administration Authorization Act of 2000
Pub. L. 106-391, § 3, Oct. 30, 2000, 114 Stat. 1579
Codified at 42 U.S.C. § 2451 note

SEC. 2451. For purposes of this Act [see Tables for classification]—

- (1) the term ‘Administrator’ means the Administrator of the National Aeronautics and Space Administration;
- (2) the term ‘commercial provider’ means any person providing space transportation services or other space-related activities, the primary control of which is held by persons other than a Federal, State, local, or foreign government;
- (3) the term ‘critical path’ means the sequence of events of a schedule of events under which a delay in any event causes a delay in the overall schedule;
- (4) the term ‘grant agreement’ has the meaning given that term in section 6302 (2) of title 31, United States Code;
- (5) the term ‘institution of higher education’ has the meaning given such term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001);
- (6) the term ‘State’ means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other commonwealth, territory, or possession of the United States; and
- (7) the term ‘United States commercial provider’ means a commercial provider, organized under the laws of the United States or of a State, which is—
 - (A) more than 50 percent owned by United States nationals; or
 - (B) a subsidiary of a foreign company and the Secretary of Commerce finds that—
 - (i) such subsidiary has in the past evidenced a substantial commitment to the United States market through—
 - (I) investments in the United States in long-term research, development, and manufacturing (including the manufacture of major components and subassemblies); and
 - (II) significant contributions to employment in the United States; and
 - (ii) the country or countries in which such foreign company is incorporated or organized, and, if appropriate, in which it principally conducts its business, affords reciprocal treatment to companies described in subparagraph (A) comparable to that afforded to such foreign company’s subsidiary in the United States, as evidenced by—
 - (I) providing comparable opportunities for companies described in subparagraph (A) to participate in Government sponsored research and development similar to that authorized under this Act;
 - (II) providing no barriers to companies described in subparagraph (A) with respect to local investment opportunities that are not provided to foreign companies in the United States; and
 - (III) providing adequate and effective protection for the intellectual property rights of companies described in subparagraph (A).

Working Capital Fund
Pub. L. No. 108-7, Div K, Title III, 117 Stat. 520, on Feb. 20, 2003.
Uncodified

There is hereby established in the United States Treasury a National Aeronautics and Space Administration working capital fund. Amounts in the fund are available for financing activities, services, equipment, information, and facilities as authorized by law to be provided within the Administration; to other agencies or instrumentalities of the United States; to any State, Territory, or possession or political subdivision thereof; to other public or private agencies; or to any person, firm, association, corporation, or educational institution on a reimbursable basis. The fund shall also be available for the purpose of funding capital repairs, renovations, rehabilitation, sustainment, demolition, or replacement of NASA real property, on a reimbursable basis within the Administration. Amounts in the fund are available without regard to fiscal year limitation. The capital of the fund consists of amounts appropriated to the fund; the reasonable value of stocks of supplies, equipment, and other assets and inventories on order that the Administrator transfers to the fund, less the related liabilities and unpaid obligations; amounts received from the sale of exchange of property; and payments received for loss or damage to property of the fund. The fund shall be reimbursed, in advance, for supplies and services at rates that will approximate the expenses of operation, such as the accrual of annual leave, depreciation of plant, property and equipment, and overhead.

Appointment of Commissioned Officer as Deputy Administrator
Pub. L. 107-117, div. B, § 307, Jan. 10, 2002, 115 Stat. 2301
Codified at 42 U.S.C. § 2472 note

SEC. 2472

During fiscal year 2002 the President, acting by and with the consent of the Senate, is authorized to appoint a commissioned officer of the Armed Forces, in active status, to the Office of Deputy Administrator of the National Aeronautics and Space Administration notwithstanding section 202(b) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2472 (b)). If so appointed, the provisions of section 403 (c)(3), (4), and (5) of title 50, United States Code, shall be applicable while the commissioned officer serves as Deputy Administrator in the same manner and extent as if the officer was serving in a position specified in section 403 (c) of title 50, United States Code, except that the officer's military pay and allowances shall be reimbursed from funds available to the National Aeronautics and Space Administration.

Notice of Reprogramming or Reorganization
Pub. L. 106–391, title III, § 311, Oct. 30, 2000, 114 Stat. 1594
Codified at 42 U.S.C. § 2473 note

SEC. 2473

(a) Notice of Reprogramming.—If any funds authorized by this Act [see Tables for classification] are subject to a reprogramming action that requires notice to be provided to the Appropriations Committees of the House of Representatives and the Senate, notice of such action shall concurrently be provided to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(b) Notice of Reorganization.—The Administrator [of the National Aeronautics and Space Administration] shall provide notice to the Committees on Science and Appropriations of the House of Representatives, and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate, not later than 30 days before any major reorganization of any program, project, or activity of the National Aeronautics and Space Administration.

Purchase of American-Made Equipment and Products
Pub. L. 106–391, title III, § 319, Oct. 30, 2000, 114 Stat. 1597
Codified at 42 U.S.C. § 2473 note

SEC. 2473

(a) Purchase of American-Made Equipment and Products.—In the case of any equipment or products that may be authorized to be purchased with financial assistance provided under this Act [see Tables for classification], it is the sense of the Congress that entities receiving such assistance should, in expending the assistance, purchase only American-made equipment and products.

(b) Notice to Recipients of Assistance.—In providing financial assistance under this Act, the Administrator [of the National Aeronautics and Space Administration] shall provide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress.

Enhancement of Science and Mathematics Programs
Pub. L. 106–391, title III, § 321, Oct. 30, 2000, 114 Stat. 1597
Codified at 42 U.S.C. § 2473 note

SEC. 2473

(a) Definitions.—In this section:

(1) Educationally useful federal equipment.—The term ‘educationally useful Federal equipment’ means computers and related peripheral tools and research equipment that is appropriate for use in schools.

(2) School.—The term ‘school’ means a public or private educational institution that serves any of the grades of kindergarten through grade 12.

(b) Sense of the Congress.—

(1) In general.—It is the sense of the Congress that the Administrator [of the National Aeronautics and Space Administration] should, to the greatest extent practicable and in a manner consistent with applicable Federal law (including Executive Order No. 12999 [40 U.S.C. 549 note]), donate educationally useful Federal equipment to schools in order to enhance the science and mathematics programs of those schools.

(2) Reports.—Not later than 1 year after the date of the enactment of this Act [Oct. 30, 2000], and annually thereafter, the Administrator shall prepare and submit to Congress a report describing any donations of educationally useful Federal equipment to schools made during the period covered by the report.

NASA Flexibility Act of 2004
P.L. 108-201, § 2 (b), 118 Stat. 461, Feb. 24, 2004
Codified at 5 U.S.C. § 101 note, amended at 42 U.S.C. § 2473

This Act[adding Chapter 98 of Title 5 and amending 42 U.S.C. § 2473 and the part analysis preceding 5 U.S.C. § 2101] may be cited as the ‘NASA Flexibility Act of 2004’.

Effective date. The amendment made by this section shall take effect on the first day of the first pay period beginning on or after the date of enactment of this of this Act