

119TH CONGRESS
2^D SESSION

S. _____

To amend title 51, United States Code, to authorize the Administrator of the National Aeronautics and Space Administration to conduct a public-private talent program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. KIM (for himself, Mr. WICKER, Mr. PADILLA, and Mr. CORNYN) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend title 51, United States Code, to authorize the Administrator of the National Aeronautics and Space Administration to conduct a public-private talent program, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “NASA Talent Ex-
5 change Program Act”.

1 **SEC. 2. NATIONAL AERONAUTICS AND SPACE ADMINISTRA-**
2 **TION PUBLIC-PRIVATE TALENT PROGRAM.**

3 Section 20113 of title 51, United States Code, is
4 amended by adding at the end the following new sub-
5 section:

6 “(o) PUBLIC-PRIVATE TALENT PROGRAM.—

7 “(1) ASSIGNMENT AUTHORITY.—

8 “(A) IN GENERAL.—Subject to subpara-
9 graph (B), the Administrator may arrange for
10 the temporary assignment of—

11 “(i) an employee of the Administra-
12 tion to a private sector entity; or

13 “(ii) an employee of a private sector
14 entity to the Administration.

15 “(B) AGREEMENT AND CONSENT.—The
16 Administrator may only arrange for an assign-
17 ment under subparagraph (A) if the Adminis-
18 trator has obtained—

19 “(i) the agreement of the private sec-
20 tor entity concerned; and

21 “(ii) the consent of the employee con-
22 cerned.

23 “(2) AGREEMENTS.—

24 “(A) IN GENERAL.—The Administrator
25 shall provide for a written agreement among
26 the Administrator, the private sector entity con-

1 tage of the private sector entity to
2 which the employee is assigned; and

3 “(ii) provide that if the employee of
4 the Administration or of the private sector
5 entity, as applicable, fails to comply with
6 the terms of the agreement, such employee
7 shall be liable to the United States for pay-
8 ment of all expenses of the assignment, un-
9 less such failure is for good and sufficient
10 reason, as determined by the Adminis-
11 trator.

12 “(C) TREATMENT OF LIABILITY FOR EX-
13 PENSES.—

14 “(i) IN GENERAL.—Any amount for
15 which an employee is liable under subpara-
16 graph (B)(ii) shall be treated as a debt due
17 the United States.

18 “(ii) WAIVER.—The Administrator
19 may waive, in whole or in part, collection
20 of a debt described in clause (i) based on
21 a determination that collection of the debt
22 would be against equity and good con-
23 science and not in the best interests of the
24 United States, after taking into account
25 any indication of fraud, misrepresentation,

1 fault, or lack of good faith on the part of
2 the employee concerned.

3 “(3) TERMINATION.—An assignment under this
4 subsection may, at any time and for any reason, be
5 terminated by the Administration or the private sec-
6 tor entity concerned, as applicable.

7 “(4) DURATION.—

8 “(A) IN GENERAL.—An assignment under
9 this subsection shall be—

10 “(i) for a period not less than 90 days
11 and not more than 2 years; and

12 “(ii) subject to subparagraph (B), re-
13 newable for a period not more 2 years.

14 “(B) EXTENSION.—A renewal of an as-
15 signment under this subsection may be for a pe-
16 riod more than 2 years, but not more than 4
17 years total, if the Administrator determines
18 that the assignment is necessary to meet crit-
19 ical mission or program requirements.

20 “(5) STATUS OF FEDERAL EMPLOYEES AS-
21 SIGNED TO PRIVATE SECTOR ENTITIES.—

22 “(A) IN GENERAL.—An employee of the
23 Administration who is assigned to a private sec-
24 tor entity under this subsection shall be consid-
25 ered, during the period of such assignment, to

1 be on detail to a regular work assignment with-
2 in the Administration for all purposes. The
3 written agreement under paragraph (2) with re-
4 spect to such employee shall address the spe-
5 cific terms and conditions related to the contin-
6 ued status of the employee as a Federal em-
7 ployee.

8 “(B) CERTIFICATION.—In establishing a
9 temporary assignment of an employee of the
10 Administration to a private sector entity under
11 this subsection, the Administrator shall—

12 “(i) certify that such assignment shall
13 not have an adverse or negative impact on
14 mission attainment or organizational capa-
15 bilities associated with such assignment;
16 and

17 “(ii) ensure that the normal duties
18 and functions of such employee—

19 “(I) can be reasonably performed
20 by other employees of the Administra-
21 tion without the permanent transfer
22 or reassignment of other personnel of
23 the Administration; and

24 “(II) are not, as a result of and
25 during the course of such temporary

1 assignment, performed or augmented
2 by contractor personnel in violation of
3 section 1710 of title 41.

4 “(6) TERMS AND CONDITIONS FOR PRIVATE
5 SECTOR EMPLOYEES.—An employee of a private sec-
6 tor entity who is assigned to the Administration
7 under this subsection—

8 “(A) shall continue to receive pay and ben-
9 efits from the private sector entity from which
10 such employee is assigned;

11 “(B) except as provided in subparagraph
12 (C), shall not receive pay or benefits from the
13 Administration;

14 “(C) shall be considered to be an employee
15 of the Administration for purposes of—

16 “(i) chapters 73 and 81 of title 5;

17 “(ii) sections 201, 203, 205, 207,
18 208, 209, 603, 606, 607, 643, 654, 1905,
19 and 1913 of title 18, except that such sec-
20 tion 209 shall not apply to any salary, or
21 contribution or supplementation of salary,
22 made under subparagraph (A);

23 “(iii) sections 1343, 1344, and
24 1349(b) of title 31;

1 “(iv) chapter 171 of title 28, United
2 States Code (commonly known as the
3 ‘Federal Tort Claims Act’) and any other
4 Federal tort liability law; and

5 “(v) chapter 21 of title 41;

6 “(D) shall not have access to any trade se-
7 crets or any other nonpublic information that is
8 of commercial value to the private sector entity
9 from which such employee is assigned;

10 “(E) may not perform work that is consid-
11 ered inherently governmental in nature; and

12 “(F) may not be used to circumvent any
13 limitation or restriction on the size of the work-
14 force of the Administration.

15 “(7) CONFLICTS OF INTEREST.—The Adminis-
16 trator shall implement a system to identify, mitigate,
17 and manage any conflict of interests that may arise
18 as a result of the assignment of an employee under
19 this subsection.

20 “(8) PROHIBITION AGAINST CHARGING CERTAIN
21 COSTS TO THE FEDERAL GOVERNMENT.—A private
22 sector entity may not charge the Administration or
23 any other agency of the Federal Government, as di-
24 rect or indirect costs under a Federal contract, the
25 costs of pay or benefits paid by the entity to an em-

1 ployee assigned to the Administration under this
2 subsection for the period of the assignment con-
3 cerned.

4 “(9) CONSIDERATIONS.—In carrying out this
5 subsection, the Administrator shall take into consid-
6 eration—

7 “(A) the manner in which assignments
8 under this subsection may best meet the needs
9 of the Administration with respect to the train-
10 ing of employees; and

11 “(B) as applicable, areas of particular pri-
12 vate sector expertise, such as cybersecurity.

13 “(10) ANNUAL REPORT.—

14 “(A) IN GENERAL.—Not later than 180
15 days after the date of the enactment of this
16 subsection, and not later than April 30 each
17 year thereafter, the Administrator shall submit
18 to the Committee on Commerce, Science, and
19 Transportation of the Senate and the Com-
20 mittee on Science, Space, and Technology of
21 the House of Representatives a report summa-
22 rizing the implementation of this subsection.

23 “(B) ELEMENTS.—Each report required
24 by subparagraph (A) shall include, for the pre-
25 ceding fiscal year, the following:

1 “(i) The total number of employees of
2 private sector entities assigned to the Ad-
3 ministration.

4 “(ii) The total number of employees of
5 the Administration assigned to private sec-
6 tor entities.

7 “(iii) A brief description and assess-
8 ment of the talent management benefits as
9 a result of such assignments, including—

10 “(I) an identification of the pri-
11 vate sector entities to and from which
12 employees were assigned;

13 “(II) a complete listing of the po-
14 sitions such employees were assigned
15 to and from;

16 “(III) an identification of as-
17 signed roles and objectives of such as-
18 signments;

19 “(IV) the duration of each such
20 assignment;

21 “(V) the pay grades and levels of
22 each such assignment; and

23 “(VI) a description of any identi-
24 fied strategic human capital or oper-
25 ational challenge of such assignments.

1 “(11) REGULATIONS.—Not later than 30 days
2 after the date of the enactment of this subsection,
3 the Administrator shall promulgate regulations to
4 carry out this subsection.”.