

111TH CONGRESS
1ST SESSION

S. 707

To enhance the Federal Telework Program.

IN THE SENATE OF THE UNITED STATES

MARCH 25, 2009

Mr. AKAKA (for himself and Mr. VOINOVICH) introduced the following bill;
which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To enhance the Federal Telework Program.

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 “Telework Enhance-
5 ment Act of 2009”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) EMPLOYEE.—The term “employee” has the
9 meaning given that term under section 2105 of title
10 5, United States Code.

1 (2) EXECUTIVE AGENCY.—Except as provided
2 in section 7, the term “executive agency” has the
3 meaning given that term under section 105 of title
4 5, United States Code.

5 (3) TELEWORK.—The term “telework” means a
6 work arrangement in which an employee performs
7 officially assigned duties at home or other worksites
8 geographically convenient to the residence of the em-
9 ployee.

10 **SEC. 3. EXECUTIVE AGENCIES TELEWORK REQUIREMENT.**

11 (a) TELEWORK ELIGIBILITY.—Not later than 180
12 days after the date of enactment of this Act, the head of
13 each executive agency shall—

14 (1) establish a policy under which eligible em-
15 ployees of the agency may be authorized to telework;

16 (2) determine the eligibility for all employees of
17 the agency to participate in telework; and

18 (3) notify all employees of the agency of their
19 eligibility to telework.

20 (b) PARTICIPATION.—The policy described under
21 subsection (a) shall—

22 (1) ensure that telework does not diminish em-
23 ployee performance or agency operations;

24 (2) require a written agreement that—

1 (A) is entered into between an agency
2 manager and an employee authorized to
3 telework, that outlines the specific work ar-
4 rangement that is agreed to; and

5 (B) is mandatory in order for any em-
6 ployee to participate in telework;

7 (3) provide that an employee may not be au-
8 thorized to telework if the performance of that em-
9 ployee does not comply with the terms of the written
10 agreement between the agency manager and that
11 employee;

12 (4) except in emergency situations as deter-
13 mined by the head of an agency, not apply to any
14 employee of the agency whose official duties require
15 on a daily basis (every work day)—

16 (A) direct handling of secure materials; or

17 (B) on-site activity that cannot be handled
18 remotely or at an alternate worksite; and

19 (5) be incorporated as part of the continuity of
20 operations plans of the agency in the event of an
21 emergency.

22 **SEC. 4. TRAINING AND MONITORING.**

23 (a) IN GENERAL.—The head of each executive agency
24 shall ensure that—

1 (1) an interactive telework training program is
2 provided to—

3 (A) employees eligible to participate in the
4 telework program of the agency; and

5 (B) all managers of teleworkers;

6 (2) except as provided under subsection (b), an
7 employee has successfully completed the interactive
8 telework training program before that employee en-
9 ters into a written agreement to telework described
10 under section 3(b)(2);

11 (3) no distinction is made between teleworkers
12 and nonteleworkers for purposes of—

13 (A) periodic appraisals of job performance
14 of employees;

15 (B) training, rewarding, reassigning, pro-
16 moting, reducing in grade, retaining, and re-
17 moving employees;

18 (C) work requirements; or

19 (D) other acts involving managerial discre-
20 tion; and

21 (4) when determining what constitutes dimin-
22 ished employee performance, the agency shall con-
23 sult the established performance management guide-
24 lines of the Office of Personnel Management.

1 (b) TRAINING REQUIREMENT EXEMPTIONS.—The
2 head of an executive agency may provide for an exemption
3 from the training requirements under subsection (a), if the
4 head of that agency determines that the training would
5 be unnecessary because the employee is already tele-
6 working under a work arrangement in effect before the
7 date of enactment of this Act.

8 **SEC. 5. POLICY AND SUPPORT.**

9 (a) AGENCY CONSULTATION WITH THE OFFICE OF
10 PERSONNEL MANAGEMENT.—Each executive agency shall
11 consult with the Office of Personnel Management in devel-
12 oping telework policies.

13 (b) GUIDANCE AND CONSULTATION.—The Office of
14 Personnel Management shall—

15 (1) provide policy and policy guidance for
16 telework in the areas of pay and leave, agency clo-
17 sure, performance management, official worksite, re-
18 cruitment and retention, and accommodations for
19 employees with disabilities;

20 (2) assist each agency in establishing appro-
21 priate qualitative and quantitative measures and
22 teleworking goals; and

23 (3) consult with—

24 (A) the Federal Emergency Management
25 Agency on policy and policy guidance for

1 telework in the areas of continuation of oper-
2 ations and long-term emergencies; and

3 (B) the General Services Administration
4 on policy and policy guidance for telework in
5 the areas of telework centers, travel, technology,
6 equipment, and dependent care.

7 (c) CONTINUITY OF OPERATIONS PLANS.—

8 (1) INCORPORATION INTO CONTINUITY OF OP-
9 ERATIONS PLANS.—Each executive agency shall in-
10 corporate telework into the continuity of operations
11 plan of that agency.

12 (2) CONTINUITY OF OPERATIONS PLANS SUPER-
13 SEDE TELEWORK POLICY.—During any period that
14 an executive agency is operating under a continuity
15 of operations plan, that plan shall supersede any
16 telework policy.

17 (d) TELEWORK WEBSITE.—The Office of Personnel
18 Management shall—

19 (1) maintain a central telework website; and

20 (2) include on that website related—

21 (A) telework links;

22 (B) announcements;

23 (C) guidance developed by the Office of
24 Personnel Management; and

1 (D) guidance submitted by the Federal
2 Emergency Management Agency, and the Gen-
3 eral Services Administration to the Office of
4 Personnel Management not later than 10 busi-
5 ness days after the date of submission.

6 **SEC. 6. TELEWORK MANAGING OFFICER.**

7 (a) IN GENERAL.—

8 (1) DESIGNATION.—The head of each executive
9 agency shall designate an employee of the agency as
10 the Telework Managing Officer. The Telework Man-
11 aging Officer shall be established within the Office
12 of the Chief Human Capital Officer or a comparable
13 office with similar functions.

14 (2) TELEWORK COORDINATORS.—

15 (A) APPROPRIATIONS ACT, 2004.—Section
16 627 of the Departments of Commerce, Justice,
17 and State, the Judiciary, and Related Agencies
18 Appropriations Act, 2004 (Public Law 108–
19 199; 118 Stat. 99) is amended by striking “des-
20 ignate a ‘Telework Coordinator’ to be” and in-
21 sserting “designate a Telework Managing Officer
22 to be”.

23 (B) APPROPRIATIONS ACT, 2005.—Section
24 622 of the Departments of Commerce, Justice,
25 and State, the Judiciary, and Related Agencies

1 Appropriations Act, 2005 (Public Law 108–
2 447; 118 Stat. 2919) is amended by striking
3 “designate a ‘Telework Coordinator’ to be” and
4 inserting “designate a Telework Managing Offi-
5 cer to be”.

6 (b) DUTIES.—The Telework Managing Officer
7 shall—

8 (1) be devoted to policy development and imple-
9 mentation related to agency telework programs;

10 (2) serve as—

11 (A) an advisor for agency leadership, in-
12 cluding the Chief Human Capital Officer;

13 (B) a resource for managers and employ-
14 ees; and

15 (C) a primary agency point of contact for
16 the Office of Personnel Management on
17 telework matters; and

18 (3) perform other duties as the applicable dele-
19 gating authority may assign.

20 **SEC. 7. REPORTS.**

21 (a) DEFINITION.—In this section, the term “execu-
22 tive agency” shall not include the Government Account-
23 ability Office.

24 (b) REPORTS BY THE OFFICE OF PERSONNEL MAN-
25 AGEMENT.—

1 (1) SUBMISSION OF REPORTS.—Not later than
2 18 months after the date of enactment of this Act
3 and on an annual basis thereafter, the Director of
4 the Office of Personnel Management, in consultation
5 with Chief Human Capital Officers Council, shall—

6 (A) submit a report addressing the
7 telework programs of each executive agency
8 to—

9 (i) the Committee on Homeland Secu-
10 rity and Governmental Affairs of the Sen-
11 ate; and

12 (ii) the Committee on Oversight and
13 Government Reform of the House of Rep-
14 resentatives; and

15 (B) transmit a copy of the report to the
16 Comptroller General and the Office of Manage-
17 ment and Budget.

18 (2) CONTENTS.—Each report submitted under
19 this subsection shall include—

20 (A) the degree of participation by employ-
21 ees of each executive agency in teleworking dur-
22 ing the period covered by the report (and for
23 each executive agency whose head is referred to
24 under section 5312 of title 5, United States
25 Code, the degree of participation in each bu-

1 reau, division, or other major administrative
2 unit of that agency), including—

3 (i) the total number of employees in
4 the agency;

5 (ii) the number and percent of em-
6 ployees in the agency who are eligible to
7 telework; and

8 (iii) the number and percent of eligi-
9 ble employees in the agency who are tele-
10 working—

11 (I) 3 or more days per pay pe-
12 riod;

13 (II) 1 or 2 days per pay period;

14 (III) once per month; and

15 (IV) on an occasional, episodic,
16 or short-term basis;

17 (B) the method for gathering telework
18 data in each agency;

19 (C) if the total number of employees tele-
20 working is 10 percent higher or lower than the
21 previous year in any agency, the reasons for the
22 positive or negative variation;

23 (D) the agency goal for increasing partici-
24 pation to the extent practicable or necessary for
25 the next reporting period, as indicated by the

1 percent of eligible employees teleworking in
2 each frequency category described under sub-
3 paragraph (A)(iii);

4 (E) an explanation of whether or not the
5 agency met the goals for the last reporting pe-
6 riod and, if not, what actions are being taken
7 to identify and eliminate barriers to maximizing
8 telework opportunities for the next reporting
9 period;

10 (F) an assessment of the progress each
11 agency has made in meeting agency participa-
12 tion rate goals during the reporting period, and
13 other agency goals relating to telework, such as
14 the impact of telework on—

15 (i) emergency readiness;

16 (ii) energy use;

17 (iii) recruitment and retention;

18 (iv) performance;

19 (v) productivity; and

20 (vi) employee attitudes and opinions
21 regarding telework; and

22 (G) the best practices in agency telework
23 programs.

24 (c) COMPTROLLER GENERAL REPORTS.—

1 (1) REPORT ON GOVERNMENT ACCOUNTABILITY
2 OFFICE TELEWORK PROGRAM.—

3 (A) IN GENERAL.—Not later than 18
4 months after the date of enactment of this Act
5 and on an annual basis thereafter, the Comp-
6 troller General shall submit a report addressing
7 the telework program of the Government Ac-
8 countability Office to—

9 (i) the Committee on Homeland Secu-
10 rity and Governmental Affairs of the Sen-
11 ate; and

12 (ii) the Committee on Oversight and
13 Government Reform of the House of Rep-
14 resentatives.

15 (B) CONTENTS.—Each report submitted
16 by the Comptroller General shall include the
17 same information as required under subsection
18 (b) applicable to the Government Accountability
19 Office.

20 (2) REPORT TO CONGRESS ON OFFICE OF PER-
21 SONNEL MANAGEMENT REPORT.—Not later than 6
22 months after the submission of the first report to
23 Congress required under subsection (b), the Comp-
24 troller General shall review that report required
25 under subsection (b) and submit a report to Con-

1 gress on the progress each executive agency has
2 made towards the goals established under section
3 5(b)(2).

4 (d) CHIEF HUMAN CAPITAL OFFICER REPORTS.—

5 (1) IN GENERAL.—Each year the Chief Human
6 Capital Officer of each executive agency, in consulta-
7 tion with the Telework Managing Officer of that
8 agency, shall submit a report to the Chair and Vice
9 Chair of the Chief Human Capital Officers Council
10 on agency management efforts to promote telework.

11 (2) REVIEW AND INCLUSION OF RELEVANT IN-
12 FORMATION.—The Chair and Vice Chair of the
13 Chief Human Capital Officers Council shall—

14 (A) review the reports submitted under
15 paragraph (1);

16 (B) include relevant information from the
17 submitted reports in the annual report to Con-
18 gress required under subsection (b); and

19 (C) use that relevant information for other
20 purposes related to the strategic management
21 of human capital.

1 **SEC. 8. AUTHORITY FOR TELEWORK TRAVEL EXPENSES**
2 **TEST PROGRAMS.**

3 (a) IN GENERAL.—Chapter 57 of title 5, United
4 States Code, is amended by inserting after section 5710
5 the following:

6 **“§ 5711. Authority for telework travel expenses test**
7 **programs**

8 “(a)(1) Notwithstanding any other provision of this
9 subchapter, under a test program which the Administrator
10 of General Services determines to be in the interest of the
11 Government and approves, an employing agency may pay
12 through the proper disbursing official any necessary travel
13 expenses in lieu of any payment otherwise authorized or
14 required under this subchapter for employees participating
15 in a telework program. An agency shall include in any re-
16 quest to the Administrator for approval of such a test pro-
17 gram an analysis of the expected costs and benefits and
18 a set of criteria for evaluating the effectiveness of the pro-
19 gram.

20 “(2) Any test program conducted under this section
21 shall be designed to enhance cost savings or other effi-
22 ciencies that accrue to the Government.

23 “(3) Under any test program, if an agency employee
24 voluntarily relocates from the pre-existing duty station of
25 that employee, the Administrator may authorize the em-
26 ploying agency to establish a reasonable maximum number

1 of occasional visits to the pre-existing duty station before
2 that employee is eligible for payment of any accrued travel
3 expenses by that agency.

4 “(4) Nothing in this section is intended to limit the
5 authority of any agency to conduct test programs.

6 “(b) The Administrator shall transmit a copy of any
7 test program approved by the Administrator under this
8 section, and the rationale for approval, to the appropriate
9 committees of Congress at least 30 days before the effec-
10 tive date of the program.

11 “(c)(1) An agency authorized to conduct a test pro-
12 gram under subsection (a) shall provide to the Adminis-
13 trator, the Telework Managing Officer of that agency, and
14 the appropriate committees of Congress a report on the
15 results of the program not later than 3 months after com-
16 pletion of the program.

17 “(2) The results in a report described under para-
18 graph (1) may include—

19 “(A) the number of visits an employee makes to
20 the pre-existing duty station of that employee;

21 “(B) the travel expenses paid by the agency;

22 “(C) the travel expenses paid by the employee;

23 or

24 “(D) any other information the agency deter-
25 mines useful to aid the Administrator, Telework

1 Managing Officer, and Congress in understanding
2 the test program and the impact of the program.

3 “(d) No more than 10 test programs under this sec-
4 tion may be conducted simultaneously.

5 “(e) The authority to conduct test programs under
6 this section shall expire 7 years after the date of the enact-
7 ment of the Telework Enhancement Act of 2009.”.

8 (b) TECHNICAL AND CONFORMING AMENDMENT.—
9 The table of sections for chapter 57 of title 5, United
10 States Code, is amended by inserting after the item relat-
11 ing to section 5710 the following:

“5711. Authority for telework travel expenses test programs.”.

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