

TO AMEND TITLE 5, UNITED STATES CODE, TO EXTEND
 THE AUTHORITY TO CONDUCT TELEWORK TRAVEL EX-
 PENSES TEST PROGRAMS, AND FOR OTHER PURPOSES

DECEMBER 11, 2017.—Committed to the Committee of the Whole House on the State
 of the Union and ordered to be printed

Mr. GOWDY, from the Committee on Oversight and Government
 Reform, submitted the following

R E P O R T

[To accompany H.R. 4171]

[Including cost estimate of the Congressional Budget Office]

The Committee on Oversight and Government Reform, to whom
 was referred the bill (H.R. 4171) to amend title 5, United States
 Code, to extend the authority to conduct telework travel expenses
 test programs, and for other purposes, having considered the same,
 report favorably thereon without amendment and recommend that
 the bill do pass.

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COMMITTEE STATEMENT AND VIEWS

PURPOSE AND SUMMARY

H.R. 4171, to amend title 5, United States Code, to extend the authority to conduct telework travel expenses test programs, extends the authorization for a telework travel cost waiver program until December 31, 2020. The program expired on December 9, 2017.

BACKGROUND AND NEED FOR LEGISLATION

Congress enacted the Telework Enhancement Act of 2010 to incentivize agencies to begin or expand telework programs.¹ Telework refers to a work flexibility arrangement by which an employee performs his or her job from a worksite other than the location from which the employee would otherwise work. For example, a teleworking employee may be permitted to work from home in lieu of maintaining a physical workspace at an agency office.

Section 3(a) of the Telework Enhancement Act of 2010 reinstated the authority of the General Services Administration (GSA) to initiate travel expenses test programs at agencies.² The Committee report on the Act stated:

Under such a program the agency may designate and pay any necessary travel expenses for an employee as an alternative to any payment that is set or required under the existing GSA travel regulations. . . . [A]n agency may also provide an employee with the option to waive any payment authorized or required by the existing regulations.³

By providing this alternative travel payment authority, agencies are incentivized to allow teleworking employees to work in places far removed from agency headquarters. In exchange for increased employee workplace flexibility, agencies can save on travel costs for a limited number of mandatory trips these teleworking employees must complete.

The U.S. Patent and Trademark Office (USPTO) was specifically required to carry out a travel expense test program, because USPTO is particularly reliant on telework as a workforce tool.⁴ In Fiscal Year 2016, USPTO had 10,879 total teleworkers.⁵ These teleworkers accounted for 85.57 percent of the agency's workforce.⁶ Of the teleworkers, 6,053 were full time.⁷

Prior to creation of USPTO's Telework Enhancement Act Pilot Program (TEAPP), the agency only had two full-time telework programs. Employees could live and work within a 50-mile radius of a USPTO campus and be excused from routine reporting, or employees could reside beyond the 50-mile radius and return to USPTO headquarters in Alexandria, Virginia, at least 13 times

¹ P.L. 111-292, 124 Stat. 3171 (Dec. 9, 2010) [hereinafter "Telework Enhancement Act of 2010"].

² *Id.*, § 3(a), codified at 5 U.S.C. § 5711(b).

³ H. Comm. on Oversight and Gov't Reform, Telework Improvements Act of 2010 11, 111th Cong. (2010) (H. Rep. 111-474).

⁴ Telework Enhancement Act of 2010, *supra* note 1, § 3(a), codified at 5 U.S.C. § 5711(f).

⁵ U.S. Patent and Trademark Office, 2016 Telework Annual Report 5 (2016) [hereinafter "USPTO 2016 Telework Annual Report"].

⁶ *Id.*

⁷ *Id.*, at 11.

each year to maintain their duty station.⁸ Since TEAPP's creation, full-time teleworking employees may live anywhere in the contiguous United States and Puerto Rico without being required to routinely report to campus. Employees waive their right to reimbursement for travel expenses for a reasonable number of mandatory trips to USPTO. In Fiscal Year 2016, 2,317 employees were part of TEAPP.⁹

USPTO reports significant benefits from TEAPP. First, USPTO found significant cost savings associated with the program. The agency estimates savings of \$77.4 million in Fiscal Year 2016, the bulk of which comes from reduced real estate costs (\$17.1 million) and increased retention (\$31.5 million).¹⁰ USPTO found the TEAPP program provided other benefits as well:

- 96 percent of TEAPP participants reported overall job satisfaction was slightly or significantly better since participating;
- 75 percent of TEAPP participants reported that the volume of work performed improved, while 69 percent reported that the quality of work performed improved;
- A reduction of CO₂ emissions in the Washington, D.C. metropolitan region due to less motor vehicle travel; and
- 96 percent of TEAPP participants feel that TEAPP has a positive impact on employee satisfaction, and 91 percent reported the option to participate in TEAPP would affect their decision to accept or not accept a position in future careers.¹¹

USPTO's authority to conduct TEAPP expired on December 9, 2017. The agency requested a three-year extension of the program in order to absorb the travel costs of TEAPP employees into its budget.¹² These travel costs are estimated at \$3.5 million for Fiscal Years 2018–2020.¹³ At the conclusion of this three-year period, TEAPP participants will be permitted to remain spread across the country, but the agency will absorb travel costs for their mandatory travel back to a USPTO facility.

LEGISLATIVE HISTORY

On October 31, 2017, Representative Greg Gianforte (R–MT) introduced H.R. 4171, to amend title 5, United States Code, to extend the authority to conduct telework travel expenses test programs, with Representative Gerald Connolly (D–VA). H.R. 4171 was referred to the Committee on Oversight and Government Reform. The Committee considered H.R. 4171 at a business meeting on November 2, 2017, and ordered the bill favorably reported by voice vote, without amendment.

⁸ U.S. Patent and Trademark Office, Telework Enhancement Act Pilot Program (TEAPP) 1 (2017) [hereinafter "TEAPP Background"].

⁹ USPTO 2016 Telework Annual Report, *supra* note 5, at 21–22.

¹⁰ TEAPP Background, *supra* note 8, at 2.

¹¹ USPTO 2016 Telework Annual Report, *supra* note 5, at 22.

¹² TEAPP Background, *supra* note 8, at 1.

¹³ *Id.*

SECTION-BY-SECTION

Section 1. Extension of Authority To Conduct Telework Travel Expenses Test Programs

Section 1 amends section 5711(g) of title 5, United States Code, by extending the sunset date of the telework travel expenses test programs from December 9, 2017 to December 31, 2020.

EXPLANATION OF AMENDMENTS

There were no amendments to H.R. 4171 offered or adopted during Committee consideration of the bill.

COMMITTEE CONSIDERATION

On November 2, 2017, the Committee met in open session and, with a quorum being present, ordered the bill favorably reported by voice vote.

ROLL CALL VOTES

There were no roll call votes requested or conducted during Committee consideration of H.R. 4171.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch where the bill relates to the terms and conditions of employment or access to public services and accommodations. This bill amends title 5, United States Code, to extend the authority to conduct telework travel expenses test programs. As such, this bill does not relate to employment or access to public services and accommodations in the legislative branch.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee's performance goal or objective of this bill is to amend title 5, United States Code, to extend the authority to conduct telework travel expenses test programs.

DUPLICATION OF FEDERAL PROGRAMS

In accordance with clause 2(c)(5) of rule XIII no provision of this bill establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

DISCLOSURE OF DIRECTED RULE MAKINGS

This bill does not direct the completion of any specific rule makings within the meaning of section 551 of title 5, United States Code.

FEDERAL ADVISORY COMMITTEE ACT

The Committee finds that the legislation does not establish or authorize the establishment of an advisory committee within the definition of Section 5(b) of the appendix to title 5, United States Code.

UNFUNDED MANDATES STATEMENT

Pursuant to section 423 of the Congressional Budget and Impoundment Control Act (Pub. L. 113-67) the Committee has included a letter received from the Congressional Budget Office below.

EARMARK IDENTIFICATION

This bill does not include any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI of the House of Representatives.

COMMITTEE ESTIMATE

Pursuant to clause 3(d)(2)(B) of rule XIII of the Rules of the House of Representatives, the Committee includes below a cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

NEW BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the House of Representatives, the cost estimate prepared by the Congressional Budget Office and submitted pursuant to section 402 of the Congressional Budget Act of 1974 is as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, December 4, 2017.

Hon. TREY GOWDY,
*Chairman, Committee on Oversight and Government Reform,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4171, a bill to amend title 5, United States Code, to extend the authority to conduct telework travel expenses test programs, and for other purposes.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Pickford.

Sincerely,

KEITH HALL,
Director.

Enclosure.

H.R. 4171—A bill to amend title 5, United States Code, to extend the authority to conduct telework travel expenses test programs, and for other purposes

H.R. 4171 would extend the authority to conduct two telework programs for federal workers until December 31, 2020. One is for the entire federal workforce and the other is specifically for the Patent and Trademark Office (PTO). Those programs permit up to 10 agencies to test innovative methods of reimbursing telework travel expenses, though only PTO currently uses that authority.

Using information from the General Services Administration (GSA) and PTO, CBO expects that only PTO would continue to actively use this authority. CBO estimates that any additional administrative costs to GSA under H.R. 4171 would be less than \$500,000 annually; such spending would be subject to the availability of appropriated funds. However, if more agencies used this authority administrative costs would be greater. CBO also estimates that the net budgetary effect on PTO to implement the bill would be negligible because we expect PTO would adjust its fee collections to offset any change in operating costs, assuming that appropriation actions were consistent with the agency's authority to collect fees.

H.R. 4171 could affect direct spending by agencies that are not funded through annual appropriations; therefore, pay-as-you-go procedures apply. CBO estimates, however, that any net increase in spending by those agencies would be negligible. Enacting H.R. 4171 would not affect revenues.

CBO estimates that enacting H.R. 4171 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

H.R. 4171 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contacts for this estimate are Matthew Pickford and Stephen Rabent. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

TITLE 5, UNITED STATES CODE

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PART III—EMPLOYEES

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SUBPART D—PAY AND ALLOWANCES

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**CHAPTER 57—TRAVEL, TRANSPORTATION, AND
SUBSISTENCE**

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**SUBCHAPTER I—TRAVEL AND SUBSISTENCE EXPENSES;
MILEAGE ALLOWANCES**

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§ 5711. Authority for telework travel expenses test programs

(a) Except as provided under subsection (f)(1), in this section, the term “appropriate committees of Congress” means—

- (1) the Committee on Homeland Security and Governmental Affairs of the Senate; and
- (2) the Committee on Oversight and Government Reform of the House of Representatives.

(b)(1) Notwithstanding any other provision of this subchapter, under a test program which the Administrator of General Services determines to be in the interest of the Government and approves, an employing agency may pay through the proper disbursing official any necessary travel expenses in lieu of any payment otherwise authorized or required under this subchapter for employees participating in a telework program. Under an approved test program, an agency may provide an employee with the option to waive any payment authorized or required under this subchapter. An agency shall include in any request to the Administrator for approval of such a test program an analysis of the expected costs and benefits and a set of criteria for evaluating the effectiveness of the program.

(2) Any test program conducted under this section shall be designed to enhance cost savings or other efficiencies that accrue to the Government.

(3) Under any test program, if an agency employee voluntarily relocates from the pre-existing duty station of that employee, the Administrator may authorize the employing agency to establish a reasonable maximum number of occasional visits to the pre-existing duty station before that employee is eligible for payment of any accrued travel expenses by that agency.

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

(c) The Administrator shall transmit a copy of any test program approved by the Administrator under this section, and the rationale for approval, to the appropriate committees of Congress at least 30 days before the effective date of the program.

(d)(1) An agency authorized to conduct a test program under subsection (b) shall provide to the Administrator, the Telework Managing Officer of that agency, and the appropriate committees of Congress a report on the results of the program not later than 3 months after completion of the program.

(2) The results in a report described under paragraph (1) may include—

- (A) the number of visits an employee makes to the pre-existing duty station of that employee;
- (B) the travel expenses paid by the agency;
- (C) the travel expenses paid by the employee; or

(D) any other information the agency determines useful to aid the Administrator, Telework Managing Officer, and Congress in understanding the test program and the impact of the program.

(e) No more than 10 test programs under this section may be conducted simultaneously.

(f)(1) In this subsection, the term “appropriate committee of Congress” means—

(A) the Committee on Homeland Security and Governmental Affairs of the Senate;

(B) the Committee on Oversight and Government Reform of the House of Representatives;

(C) the Committee on the Judiciary of the Senate; and

(D) the Committee on the Judiciary of the House of Representatives.

(2) The Patent and Trademark Office shall conduct a test program under this section, including the provision of reports in accordance with subsection (d)(1).

(3) In conducting the program under this subsection, the Patent and Trademark Office may pay any travel expenses of an employee for travel to and from a Patent and Trademark Office worksite or provide an employee with the option to waive any payment authorized or required under this subchapter, if—

(A) the employee is employed at a Patent and Trademark Office worksite and enters into an approved telework arrangement;

(B) the employee requests to telework from a location beyond the local commuting area of the Patent and Trademark Office worksite; and

(C) the Patent and Trademark Office approves the requested arrangement for reasons of employee convenience instead of an agency need for the employee to relocate in order to perform duties specific to the new location.

(4)(A) The Patent and Trademark Office shall establish an oversight committee comprising an equal number of members representing management and labor, including representatives from each collective bargaining unit.

(B) The oversight committee shall develop the operating procedures for the program under this subsection to—

(i) provide for the effective and appropriate functioning of the program; and

(ii) ensure that—

(I) reasonable technological or other alternatives to employee travel are used before requiring employee travel, including teleconferencing, videoconferencing or internet-based technologies;

(II) the program is applied consistently and equitably throughout the Patent and Trademark Office; and

(III) an optimal operating standard is developed and implemented for maximizing the use of the telework arrangement described under paragraph (2) while minimizing agency travel expenses and employee travel requirements.

(5)(A) The test program under this subsection shall be designed to enhance cost savings or other efficiencies that accrue to the Government.

- (B) The Director of the Patent and Trademark Office shall—
- (i) prepare an analysis of the expected costs and benefits and a set of criteria for evaluating the effectiveness of the program; and
 - (ii) before the test program is implemented, submit the analysis and criteria to the Administrator of General Services and to the appropriate committees of Congress.

(C) With respect to an employee of the Patent and Trademark Office who voluntarily relocates from the pre-existing duty station of that employee, the operating procedures of the program may include a reasonable maximum number of occasional visits to the pre-existing duty station before that employee is eligible for payment of any accrued travel expenses by the Office.

(g) The authority to conduct test programs under this section shall expire **【7 years after the date of the enactment of the Telework Enhancement Act of 2010】** *on December 31, 2020.*

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