

Calendar No. 735

118TH CONGRESS }
2d Session }

SENATE

{ REPORT
{ 118-315

TELEWORK TRANSPARENCY ACT

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 4043

TO AMEND TITLE 5, UNITED STATES CODE, TO MAKE
EXECUTIVE AGENCY TELEWORK POLICIES TRANSPARENT, TO
TRACK EXECUTIVE AGENCY USE OF TELEWORK, AND FOR OTHER
PURPOSES



DECEMBER 19 (legislative day, DECEMBER 16), 2024.—Ordered to be
printed

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Mr. PETERS, from the Committee on Homeland Security and Governmental Affairs, submitted the following

R E P O R T

[To accompany S. 4043]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 4043) to amend title 5, United States Code, to make executive agency telework policies transparent, to track executive agency use of telework, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill, as amended, do pass.

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I. PURPOSE AND SUMMARY

S. 4043, the *Telework Transparency Act of 2024*, would require agencies to post telework policies online and establish automated systems for tracking employee use of telework through payroll systems. The bill directs the Office of Personnel Management (OPM) to maintain an online dashboard to present the telework data in a readable format and ensure data quality. It would require agencies to assess and monitor the effects of telework on agency performance, including customer experience and service, backlogs and wait times, security, cost to operations, the management of real

property and personal property, investments in information technology, and recruitment and retention. In addition, the bill requires agencies to measure office space utilization against benchmarks established by the Office of Management and Budget (OMB), using a Government Accountability Office (GAO)-based formula in the interim. The bill directs OMB to set an office utilization rate goal for agencies of at least 60% utilization and requires that federal managers track and evaluate the performance of federal employees who telework. The bill would also adjust current annual reporting requirements to focus more on agency performance instead of maximizing telework participation. Finally, the bill requires GAO to conduct audits on (1) OMB's office utilization benchmarks and agency systems to track office utilization, and (2) how agencies determine the official worksite for teleworking employees including determining locality payments.

II. BACKGROUND AND NEED FOR THE LEGISLATION

In December 2010, Congress passed the *Telework Enhancement Act of 2010* to specify the roles, responsibilities, and expectations for all executive agencies regarding telework policies for federal workers, including employee eligibility and participation, program implementation, and agency reporting requirements.¹ Federal law requires agencies to establish telework policies, ensure that employees have an approved agreement on file prior to teleworking, and provide telework training to employees eligible for telework and managers of teleworkers.² It also included reporting requirements for OPM and executive agencies. OPM must report annually to Congress on federal employee telework participation and the impact of telework on elements.³ In April 2011, OPM issued guidance to assist agencies with implementing the Act.⁴

The statute and 2011 guidance on how to report the number of teleworking employees did not capture the full scope of individuals teleworking full-time, nor the average number of days teleworked per pay period.⁵ However, it resulted in more consistent reporting on telework rates compared to reports from prior years.⁶ In the years after the bill's passage, OPM annual reports indicate that federal employee eligibility for telework ranged from 47% of the federal workforce in 2012 to 39% in 2019.⁷ During the same time period, participation in telework arrangements increased from 14% of the total federal workforce to 22%, as a higher percentage of telework-eligible federal employees began actually participating in some form of telework.⁸

The onset of the COVID-19 pandemic led to a notable increase in the percentage of federal employees eligible for telework, from

¹ Pub. L. No: 111-292 (2010).

² 5 U.S.C. Ch. 65.

³ 5 U.S.C. § 6506(b).

⁴ Office of Personnel Management, *Guide to Telework in the Federal Government* (Apr. 2011) (www.opm.gov/telework/training/employee-telework-fundamentals/Course/documents/telework_guide.pdf) at 5.

⁵ *Id.* and Pub. L. No: 111-292 (2010).

⁶ See 5 U.S.C. § 6506 and Office of Personnel Management History, Legislation, and Reports (www.opm.gov/telework/history-legislation-reports/) (accessed Oct. 28, 2024).

⁷ Office of Personnel Management, *Status of Telework in the Federal Government Report to Congress: Fiscal Year 2022* (Dec. 2023) (www.opm.gov/telework/documents-for-telework/2023-report-to-congress.pdf).

⁸ *Id.* at 16.

39% in 2019 to 50% in 2020.⁹ Even more significantly, the percentage of telework-eligible federal employees who actually participated in telework jumped from 56% of eligible employees in 2019 to 90% in 2020.¹⁰ These increases began in March 2020 when OMB directed federal agencies to maximize employee use of telework due to the COVID-19 pandemic.¹¹ Based on data through September 2020, GAO reported that the percentage of employees who teleworked during the onset of the pandemic increased at all major agencies. Over half of the major agencies reported that time spent by federal workers in telework status reached over 80% of total work time.¹²

The heightened level of telework participation continued throughout the COVID-19 pandemic in both the public and private sectors. Between 2020 and 2022, an average of 90% of telework-eligible federal employees engaged in some form of telework, meaning 46% of the total federal workforce.¹³ Among the U.S. workforce more broadly, GAO found that the percentage of workers who teleworked for any portion of an average workday increased from 24% in 2019 to 38% in 2021, with more significant increases for positions that involve higher earnings or require more education, as well as in fields such as information, finance, and professional, scientific, and management services.¹⁴

The most recent reporting on telework participation indicates that even though the frequency of teleworking has declined since the peak of the pandemic, employees continue to telework and work remotely at a higher rate than before the pandemic. OPM reported that during fiscal year 2022, 46% of federal employees participated in some form of routine or situational telework compared to 22% in fiscal year 2019.¹⁵ The Congressional Budget Office estimated that in 2022, 22% of federal employees usually teleworked, as compared to 25% of private sector employees.¹⁶ In October 2023, Gallup found that 50% of U.S. employees surveyed worked in a hybrid environment that included an in-office presence and some degree of telework.¹⁷ An OMB report found that, as of May 2024, telework-eligible federal employees spent an average of 61.2% of their regular work hours working in-person. An average of 79.4% of working hours were spent in-person across all federal employees, including telework-eligible and non-telework eligible positions.¹⁸ These findings indicate a meaningful decrease in the number of

⁹ *Id.* at 15.

¹⁰ *Id.* at 15 and 16.

¹¹ Office of Management and Budget, *Updated Guidance for the National Capital Region on Telework Flexibilities in Response to Coronavirus* (Mar. 15, 2020) (www.whitehouse.gov/wp-content/uploads/2020/03/M20-15-Telework-Guidance-OMB.pdf).

¹² Government Accountability Office, *Covid-19: Federal Telework Increased during the Pandemic, but More Reliable Data Are Needed to Support Oversight* (GAO-22-104282) (Feb. 8, 2022) at 10.

¹³ Office of Personnel Management, *supra* note 7, at 16.

¹⁴ Government Accountability Office, *Telework: Growth Support Economic Activity during the Pandemic, but Future Impacts are Uncertain* (GAO-23-105999) (July 26, 2023).

¹⁵ Office of Personnel Management, *supra* note 7, at 16.

¹⁶ Congressional Budget Office, *Comparing the Compensation of Federal and Private-Sector Employees in 2022* (Apr. 2024) (www.cbo.gov/publication/60235).

¹⁷ Sangeeta Agrawal, *The Future of the Office Has Arrived: It's Hybrid*, Gallup (October 9, 2023).

¹⁸ Office of Management and Budget, *OMB Report to Congress on Telework and Real Property Utilization* (Aug. 2024) (www.whitehouse.gov/wp-content/uploads/2024/08/OMB-Report-to-Congress-on-Telework-and-Real-Property.pdf).

work hours spent in telework status since the height of the pandemic.¹⁹

Reliable and up-to-date data is essential for tracking telework use, particularly given changes in agency use of telework and remote work during and after the pandemic. OPM has taken some steps to improve the collection of data on telework since 2020, but it has not fully resolved the limitations of the current reporting structure required by law. OPM updated its guidance on telework and remote work in 2021, including to specifically address arrangements where federal employees telework full-time and live in a different geographic location than the agency worksite.²⁰ In March 2023, OPM Director Kiran Ahuja circulated a memo to the heads of agencies that added new categories of data collection from agencies to capture employee participation in remote work arrangements as a distinct category from other telework arrangements. The memo sought to respond to a need expressed by agencies for having more refined data on telework to improve evaluations of the impact of telework on personnel and agency performance and better inform agency decisions going forward.²¹ However, the memo is simply guidance for agencies, rather than authorities from Congress to ensure agency compliance with updated data standards. Furthermore, the new data collection directives in the memo do not fully correct for the lack of granular requirements in federal statute, such as data on the average number of teleworking days per pay period for federal employees who participate in telework arrangements.

GAO has raised longstanding concerns about the quality and reliability of government-wide telework data. In 2022, GAO noted OPM's lack of progress on recommendations from a 2016 report to strengthen internal controls on centralized telework data and make the data widely available.²² Because of the lack of progress, GAO suggested that Congress consider requiring OPM to develop an implementation plan to improve the reliability of information in its federal payroll data system, which is a key input to federal telework data. GAO noted that until the appropriate data controls are implemented, OPM will be unable to precisely assess telework usage across agencies nor provide a full and accurate picture to Congress to support oversight.²³

The OPM annual reports use data collected from the prior fiscal year, meaning that by the time the report is released, the data is nearly one year old. For example, as of fall 2024, the most recent annual telework report from OPM captures telework rates from over 18 months ago.²⁴ OPM published its most recent annual telework report in December 2023, and it features data collected from January and February of 2023. The report flags that data on

¹⁹This number can be compared to GAO findings that over half of agencies exceeded 80% of work hours spent in telework status at some point during 2020. See *Government Accountability Office, supra* note 12.

²⁰Office of Personnel Management, *2021 Guide to Telework and Remote Work in the Federal Government* (Nov. 2021) (www.opm.gov/telework/documents-for-telework/2021-guide-to-telework-and-remote-work.pdf).

²¹Office of Personnel Management, *Advancing Future of the Workplace Policies and Practices to Support Mission Delivery* (Mar. 7, 2023).

²²Government Accountability Office, *Covid-19: Federal Telework Increased During the Pandemic, but More Reliable Data Are Needed to Support Oversight* (GAO-22-104282) (Feb. 8, 2022) at 17.

²³*Id.* at 18 and 29.

²⁴*Office of Personnel Management, supra* note 7, at 9.

telework frequency should be interpreted cautiously because of the wide variation in how agencies compute the data point.²⁵ The message from OPM Director accompanying this latest report notes that OPM “would welcome engagement with Congress to refine the structure of this report to provide both Congress and agencies with more useful and timely information about telework and remote work trends.”²⁶

The *Telework Transparency Act of 2024* would help address limitations of federal telework data by statutorily requiring OPM to establish agency data reporting requirements and data standards for agencies, along with protocols for tracking employee use of telework. The bill would require agencies to establish automated telework tracking systems within their payroll systems that align with the standards and protocols established by OPM. OPM must also provide agencies with best practices and training for verifying the locality rate of pay for teleworking employees. These steps would culminate in OPM establishing and maintaining a publicly available online dashboard to regularly report out telework participation data, including the average number of days per pay period that eligible employees telework.

The *Telework Transparency Act of 2024* also requires improved evaluations and reporting on how telework impacts agency performance and how lessons learned from the pandemic should factor into agency strategies for preparing for the future of work. Data suggests that telework and remote work will continue to play a significant role in personnel strategies across both the public and private sectors, often in the form of hybrid work environments. According to a survey administered by the Federal Reserve Bank of Atlanta, University of Chicago, and Stanford University, U.S. private sector firms are expecting an increase in hybrid and remote work over the next several years. The 595 firms surveyed estimated that, on average, more than 28% of their workforces would be in a hybrid or remote work environment by 2028, up from 24% in 2023.²⁷ A recent study evaluating 1,600 employees at a private sector company found that a hybrid work environment improved job satisfaction and reduced quit rates by one-third without affecting job performance.²⁸ Another study from 2023 found that workers save an average 72 minutes a day when working from home and that much of that time flows back to employers as workers allocate 40% of their daily time savings to their jobs.²⁹

Federal agencies are also contemplating the role of telework and remote work in the context of longer term strategic workforce planning, including for the purpose of considering how emerging technologies will affect job responsibilities and operations. In March 2023, OPM circulated a memorandum to the heads of agencies regarding OPM’s vision and priority areas for the future of the fed-

²⁵ Office of Personnel Management, *supra* note 7, at 18.

²⁶ Office of Personnel Management, *supra* note 7, at 2.

²⁷ Survey of Business Uncertainty, *Monthly Report: August 2023 Based on Survey Responses from 14–25 August* (Aug. 2023) (www.atlantafed.org/-/media/documents/datafiles/research/surveys/business-uncertainty/chart-pack/2023/2023-08.pdf) at 7.

²⁸ Nicholas Bloom, et al., *Hybrid working from home improves retention without damaging performance*, *Nature* (June 12, 2024).

²⁹ Cevat Giray Aksoy, et al., *Time Savings When Working from Home*, AEA Papers and Proceedings (May 2023).

eral workforce.³⁰ The memo states: “We envision a Federal government with a workforce of the future that is inclusive, agile, and engaged, with the right skills to enable mission delivery.” The memo discusses priority areas for achieving this vision that include developing resources to support agencies with hybrid work environments and researching lessons learned from the pandemic on subjects such as remote work, workforce flexibility, and organizational health.³¹

As agencies continue to assess and adapt their telework and remote work policies in the wake of the maximum telework posture necessitated by the COVID-19 pandemic, it is critical that they measure and report on the impact of telework on agency performance. In April 2023, OMB issued guidance to federal agencies instructing them to update their plans for telework options and related operational policies. It instructed agencies to establish routines to assess, optimize, and monitor progress related to organizational health and performance on an ongoing basis, including with respect to telework policies. The guidance outlined multiple strategies for developing related indicators, including on the topics of talent management, costs to the agency, capital planning, delivery of strategic objectives, customer experience, employee performance, hiring timelines, information technology and cybersecurity processes, use of agency office space, constituent services backlogs, and more. The guidance also directed agencies to establish processes for collecting, tracking, and analyzing quantitative and qualitative data and receiving regular feedback and assessments on these topics related to teleworking policy.³²

The *Telework Transparency Act of 2024* would take further steps to ensure agency evaluation of performance, in light of telework policy decisions, continues in a rigorous, reliable, and more transparent manner. The bill would require agencies to assess the effects of telework on agency performance using indicators related to customer experience and service, backlogs and wait times, security, cost to operations, the management of real property and personal property, investments in network capacity or communications infrastructure, and the recruitment and retention of employees. Agencies would need to report these indicators and processes to OPM and OMB, as well as make them publicly available online.

In addition, with the federal workforce increasingly dispersed between physical office locations and approved telework or remote work locations, the *Telework Transparency Act of 2024* requires agencies to measure utilization of federal office space in a consistent and transparent manner. The use of office space at federal agencies changed significantly during the pandemic due to the maximum telework posture and subsequent transition periods. In April 2021, OMB published guidance for agencies to develop plans and policies for an increased return of federal employees to physical workplaces.³³ By the end of 2022, all 24 Federal Real Property

³⁰ Office of Personnel Management, *Advancing Future of the Workforce Policies and Practices to Support Mission Delivery* (Mar. 7, 2023) (www.whitehouse.gov/wp-content/uploads/2023/04/M-23-15.pdf).

³¹ *Id.* at 2.

³² Office of Management and Budget, M-23-15: *Measuring, Monitoring, and Improving Organizational Health and Organizational Performance in the Context of Evolving Agency Work Environments* (Apr. 13, 2023) (www.whitehouse.gov/wp-content/uploads/2023/04/M-23-15.pdf).

³³ Office of Management and Budget, M-21-25: *Integrating Planning for A Safe Increased Return of Federal Employees and Contractors to Physical Workplaces with Post-Reentry Personnel*

Council (FRPC) agencies said they completed their initial return to office transitions.³⁴ In July 2022, OMB asked the FRPC agencies to collect evidence-based data to estimate their future space needs. The OMB memo stated that “when determining future physical space requirements, agencies should consider the agency’s mission and customer needs, its current and future workforce, and how any decisions might affect local communities.”³⁵

In 2023, GAO found that 17 of the 24 federal agencies used an estimated average 25% or less of their headquarters buildings’ capacity in a three-week sample period across January, February, and March.³⁶ Many agencies were already trending in the direction of downsizing their office space, as a number of headquarters buildings had excess space prior to the pandemic. For example, in fiscal year 2016, GAO reported that 17 of the 24 agencies analyzed reported that they reduced their space.³⁷ In a separate 2023 report, GAO found that agencies face multiple barriers with increasing headquarters office utilization rates, including that there are no consistent benchmarks for how agencies should measure utilization or for what is considered full utilization for federal office space. GAO noted retaining excess and underutilized space is one of the main reasons that federal real property management has remained on GAO’s High-Risk List since 2003. GAO in turn recommended that OMB and FRPC develop and use benchmarks for measuring building utilization that account for greater levels of telework.³⁸

The *Telework Transparency Act of 2024* would follow GAO’s 2023 recommendation for improving office space utilization by directing OMB, in coordination with the General Services Administration and the FRPC, to develop benchmarks for agencies to measure office space utilization and to provide guidance to agencies for data on average daily onsite attendance. It requires agency to measure and report on office space utilization in a consistent manner. The bill also directs OMB to set office space utilization rate goals for federal agencies, with 60% utilization as the floor. GAO would assess the benchmarks established by OMB and conduct ongoing reviews of agency systems to measure office space utilization.

In addition to the provisions related to telework data, agency performance indicators, and office space utilization, the *Telework Transparency Act* includes further requirements in support of improving transparency, accuracy, and oversight of telework policies. The bill would require agencies to post their telework policies online, which OPM would compile in a centralized format. It would also require managers to use appropriate methods to track the performance of teleworking employees and ensure the completion of work tasks. The bill updates the annual OPM requirements and the types of qualitative analysis provided by OPM, which would be

Policies and Work Environment (June 10, 2021) (www.whitehouse.gov/wp-content/uploads/2021/06/M-21-25.pdf).

³⁴ Government Accountability Office, *Federal Real Property: Agencies Need New Benchmarks to Measure and Shed Underutilized Space* (GAO–24–107006) (Oct. 26, 2023) at 7.

³⁵ Office of Management and Budget, M–22–14: FY 2024 *Agency-wide Capital Planning to Support the Future of Work* (July 20, 2022) (www.whitehouse.gov/wp-content/uploads/2022/07/M-22-14.pdf).

³⁶ Government Accountability Office, *Federal Real Property: Preliminary Results Show that Increased Telework and Longstanding Challenges Led to Underutilized Federal Buildings* (GAO–23–107060) (Sep. 27, 2023) at 7.

³⁷ Government Accountability Office, *Federal Buildings: Agencies Focus on Space Utilization As They Reduce Office and Warehouse Space* (GAO–18–304) (Mar. 8, 2018) at 16.

³⁸ Government Accountability Office, *supra* note 34, at 9 and 17.

in addition to the quantitative data provided by the data dashboard. The qualitative analysis would be oriented around aspects of agency performance and operational efficiency rather than the goal of maximizing telework participation. This bill would also provide OPM with regulatory authority to ensure federal agencies are complying the telework data and reporting requirements. One year after the bill's enactment, federal agencies would be required to submit to Congress a report on the metrics and methods used to determine the productivity of teleworking employees, as well the effects on a variety of agency operations, and any barriers to meeting in-person work targets, if applicable. Finally, the bill directs GAO to report on how agencies determine the official worksite for teleworking employees, especially for the purpose of determining locality payment. GAO would examine how agencies ensure that teleworking employees regularly report to their official worksite and what oversight practices agencies use to review and verify the locality pay rate for teleworking employees.

III. LEGISLATIVE HISTORY

Senator Gary Peters introduced S. 4043, the *Telework Transparency Act of 2024*, on March 21, 2024, with original cosponsor Senator Joni Ernst (R-IA). The bill was referred to the Committee on Homeland Security and Governmental Affairs.

The Committee considered S. 4043 at a business meeting on September 18, 2024. At the business meeting, Senator Peters offered a substitute amendment to the bill. The substitute required that the telework data dashboard convey the average number of days per pay period that eligible employees telework and added text to ensure office space utilization calculations factor in employee duties involving field work or travel, temporary leave, data from swiping into buildings, and the presence of contractors. The substitute amendment also added a requirement that federal managers track and evaluate the performance of federal employees who telework, as well as an agency reporting requirement regarding the effects of telework on different aspects of agency and personnel operations. In addition, the substitute amendment removed language related to the continuity of operations during emergency incidents and specified that the bill does not authorize the appropriation of additional funds. The Committee adopted the Peters substitute amendment by unanimous consent, with Senators Peters, Hassan, Sinema, Rosen, Ossoff, Blumenthal, Butler, Paul, Lankford, Romney, Scott, Hawley, and Marshall present. The bill, as amended by the Peters substitute amendment, was ordered reported favorably by roll call vote of 12 yeas to 2 nays, with Senators Peters, Carper, Hassan, Sinema, Rosen, Ossoff, Blumenthal, Butler, Lankford, Romney, Hawley, and Marshall voting in the affirmative, and with Senators Paul and Scott voting in the negative. Senator Johnson voted yea by proxy, for the record only.

IV. SECTION-BY-SECTION ANALYSIS OF THE BILL, AS REPORTED

Section 1. Short title

This section establishes the short title of the bill as the “Telework Transparency Act of 2024.”

Section 2. Telework policy transparency and tracking

Subsection (a) amends chapter 65 of title 5, United States Code, to improve the transparency of agency telework policies, including through online reporting. This subsection adds language to require that agencies make their telework policies publicly available online and submit the policies to OPM. OPM must compile the agency telework policies and descriptions of how the agencies assess and monitor the effects of telework on agency performance on in a centralized manner on the OPM telework website. In addition, the subsection adds a requirement that federal managers track and evaluate the performance of federal employees who telework. It also adds new subsections (c) and (d), described in the following two paragraphs, to section 6503 of chapter 65, which relates to training for and monitoring of agency telework programs.

The new subsection (c) of section 6503 would require automated tracking of employee use of telework and an online data dashboard to convey this information publicly. It directs OPM to establish telework data reporting requirements as well as common data standards and protocols for tracking employee use of telework. OPM must use internal controls for ensuring data quality of telework reported by agencies. In addition, OPM must provide best practices and training for managers of teleworking employees to ensure accurate calculations of locality payments. The subsection also directs the heads of executive agencies to establish automated telework tracking within payroll systems that conform to the data standards issued by OPM. Within two years of the bill's enactment, OPM must establish and maintain a publicly available online tool to make the required telework data from agencies available in a readable format. The data presented online must include the average number of days per period that eligible employees telework.

The new subsection (d) of section 6503 would require federal agencies to factor in telework as part of monitoring office space utilization and agency performance. It requires the heads of executive agencies to establish a system to track office space utilization rates aligned with guidance and benchmarks issued by OMB. Agencies must include these rates in their annual budget justification materials. In addition, the heads of executive agencies must identify a set of indicators to assess and monitor the effects of telework policy on agency performance, including indicators related to security, cost to operations, the management of real property and related personal property, investments in network capacity and communication infrastructure, recruitment and retention, and customer experience and service, including backlogs and wait times. Agencies must submit a description of these indicators and how they routinely assess the effects of telework to OMB and OPM, as well make the descriptions publicly available.

Subsection (b) amends section 6504 of title 5, United States Code, which relates to guidance for agency telework policies. The subsection directs OMB, in coordination with GSA and FRPC, to develop benchmarks for agencies to measure office space utilization that accounts for the use of telework. OMB must also provide guidance to agencies for collecting occupancy data regarding average daily onsite attendance, as well as establish office space utilization rate goals for agencies that are not less than 60% utilization. The guidance must factor in employee duties involving field work or

travel, temporary leave, data from swiping into buildings, and the presence of contractors or other individuals in the building. Until the benchmarks and guidance are established, agencies are to use a formula to calculate office space utilization on a quarterly basis. The formula involves a calculation of usable square feet that is in accordance with the standard methods of measurement developed by the Building Owners and Managers Association International, as approved by the American National Standards Institute. In addition, this subsection directs OMB, in coordination with OPM and GSA, to provide guidance to agencies on identifying indicators and routines for assessing and monitoring the effects of telework on agency performance.

Subsection (c) amends section 6506 of title 5, United States Code, which relates to annual reporting requirements on agency telework policies. The subsection adds language authorizing OPM to use the online dashboard established in subsection (a) to meet applicable content requirements of telework reports, instead of using the annual report method. The dashboard may better capture some of the quantitative components of the current annual reporting requirements and involve more up-to-date data, such as reporting on the number and percent of eligible employees in the agency who are teleworking and the number of teleworking days per pay period.

In addition, subsection (c) strikes language that requires the annual report to discuss agency goals of increasing telework participation and maximizing telework opportunities. Instead, the qualitative components of the report would focus on the impact of telework on goals related to emergency readiness, energy use and carbon emissions, recruitment and retention, performance, productivity, employee attitudes, the ability of the agency to dispose of or unnecessary and underutilized space or property, and customer experience and service, including backlogs and wait times. If agencies do not reach these goals, the annual report must discuss what actions agencies are taking to reach the goals in the next reporting period. The subsection also adds annual reporting requirements on what steps agencies are taking to ensure oversight and quality control with respect to telework and to increase the office space utilization rates to at least 60% utilization or any higher rate established by OMB.

Subsection (d) adds a new section 6507 to Chapter 65 of title 5, United States Code, to provide OPM with the authority to prescribe regulations to monitor and enforce agency telework policy requirements.

Subsection (e) requires a report within one year of the bill's enactment from the heads of executive agencies to Congress that identifies the ways in which agencies measure the productivity of employees while teleworking, the effects of telework on various agency and personnel operations, and barriers agencies are encountering to meeting in-person targets. The report must be conducted in coordination with the Directors of OPM and OMB, the Administrator of GSA, and agency Chief Human Capital Officers, Chief Financial Officers, and Chief Information Officers.

Section 3. GAO audits and reports

Subsection (a) defines the terms “agency,” “appropriate congressional committee,” “Comptroller General,” “employee,” “executive

agency,” “telework,” “locality payment,” and “official worksite” for the purposes of this section.

Subsection (b) direct GAO, for each of the first three fiscal years following the bill’s enactment, to audit and report to Congress on how agencies conduct measurements under benchmarks established by OMB for agencies to use to measure their office space utilization. If OMB has not yet established benchmarks, GAO must instead examine how agencies make office space utilization rate calculations based on the formula described in section 2(b) of this bill. The subsection also requires GAO to audit the benchmarks themselves, which would occur at any point OMB first establishes or makes changes to benchmarks measuring office space utilization. After OMB first establishes the benchmarks, GAO must audit agency systems for tracking office space utilization rates for the following three fiscal years, regardless of whether or not this occurs within the first three fiscal years of the bill’s enactment.

Subsection (c) directs GAO, within 180 days after the bill’s enactment, to brief Congress on how agencies determine the official worksite for teleworking employees, especially for the purpose of determining the amount of the employee’s locality payment. Within one year of providing this briefing, GAO must submit a report to Congress examining how agencies ensure that employees regularly report to their official worksite and the oversight practices agencies use to review and verify the locality payments for teleworking employees. In addition, the report must assess how agencies use authorities to temporarily waive requirements for teleworking employees to regularly report to their official worksite. The subsection directs GAO to assess agency practices on these subjects again in two years and four years after the first report and submit to Congress a report on any changes.

Section 4. No Additional funds

This section specifies that no additional funds are to be appropriated for the purpose of carrying out this bill.

V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill and determined that the bill will have no regulatory impact within the meaning of the rules. The Committee agrees with the Congressional Budget Office’s statement that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

The Congressional Budget Act of 1974 requires the Congressional Budget Office, to the extent practicable, to prepare estimates of the budgetary effects of legislation ordered reported by Congressional authorizing committees. In order to provide the Congress with as much information as possible, the attached table summarizes information about the estimated direct spending and revenue effects of some of the legislation that has been ordered reported by the Sen-

ate Committee on Homeland Security and Governmental Affairs during the 118th Congress. The legislation listed in this table generally would have small effects, if any, on direct spending or revenues, CBO estimates. Where possible, the table also provides information about the legislation's estimated effects on spending subject to appropriation and on intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act.

ESTIMATED BUDGETARY EFFECTS AND MANDATES INFORMATION

Bill number	Title	Status	Last action	Budget function	Direct spending, 2025-2034	Revenues, 2025-2034	Spending subject to appropriation, 2025-2029	Pay-as-you-go procedures apply?	Budgetary effects after 2034	Mandates	Contact
S. 4043 ...	Telework Transparency Act of 2024	Ordered reported	09/18/24	800	Between zero and \$500,000	0	Not Estimated	Yes	No	No	Kelly Durand

S. 4043 would alter governmentwide teleworking policies, requiring the Office of Personnel Management to establish standards for federal agencies to track employee teleworking and federal agencies to monitor the effects of teleworking on agency performance and use of office space. S. 4043 also would require each agency and the Government Accountability Office to report to the Congress on the bill's implementation. Enacting S. 4043 could affect direct spending by some agencies that are allowed to use fees, receipts from the sale of goods, and other collections to cover operating costs. CBO estimates that any net changes in direct spending by those agencies would be negligible because most of them can adjust amounts collected to reflect changes in operating costs. CBO estimates that enacting S. 4043 would have no effect on revenues. CBO has not estimated the bill's effects on spending subject to appropriation. The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

UNITED STATES CODE

* * * * *

TITLE 5—GOVERNMENT ORGANIZATION AND EMPLOYEES

* * * * *

PART III—EMPLOYEES

* * * * *

Subpart D—Attendance and Leave

* * * * *

CHAPTER 65—TELEWORK

Sec.
6501. * * *

* * * * *

6505. Telework Managing Officer.

6505A. *Regulatory Authority.*

6506. Reports.

* * * * *

SEC. 6502. EXECUTIVE AGENCIES TELEWORK REQUIREMENTS

(a) TELEWORK ELIGIBILITY.—

(1) IN GENERAL.—~~Not later than 180 days after the date of enactment of this chapter, the~~*The* head of each executive agency shall—

(A) establish a policy under which eligible employees of the agency may be authorized to telework;

(B) determine the eligibility for all employees of the agency to participate in telework; ~~and~~

(C) notify all employees of the agency of their eligibility to telework~~;~~*;* ~~and~~

(D) *not later than 180 days after the date of enactment of this subparagraph, and as updates are made thereafter—*

(i) submit to the Director of the Office of Personnel Management a description of the policy established under subparagraph (A), or any successor policy; and

(ii) make publicly available on the website of the executive agency the most current version of the policy described in clause (i).

* * * * *

SEC. 6503. TRAINING AND MONITORING

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

(1) * * *

(2) * * *

(3) *managers of teleworkers, using appropriate methods, track and evaluate the performance of teleworkers, including with respect to the completion of tasks associated with the duties, responsibilities, and authorized activities of teleworkers;*

~~[(3)]~~(4) teleworkers and nonteleworkers are treated the same for purposes of—

~~[(4)]~~(5) when determining what constitutes diminished employee performance, the agency shall consult the performance management guidelines of the Office of Personnel Management.

(b) * * *

(c) **MONITORING EMPLOYEE USE OF TELEWORK.**—

(1) **DEFINITION.**—*In this subsection, the term “Shared Service Centers” has the meaning given the term in section 850.103 of title 5, Code of Federal Regulations, or any successor regulation.*

(2) **ESTABLISHMENT OF COMMON DATA STANDARDS; DATA REPORTING REQUIREMENTS.**—*Not later than 180 days after the date of enactment of this subsection, in part to aid in the collection of data for the purposes of satisfying the reporting requirements under section 6506, the Director of the Office of Personnel Management shall establish—*

(A) *executive agency telework data reporting requirements, including required timeframes for reporting;*

(B) *data standards and protocols for tracking employee use of telework;*

(C) *best practices and training for managers of employees who telework to review and verify the amount of a locality payment, as defined in section 531.602 of title 5, Code of Federal Regulations (or any successor regulation), paid to such an employee;*

(D) *internal controls for data quality with respect to the use of telework, including procedures to—*

(i) *consistently monitor system-generated errors;*

(ii) *produce reports on adherence to data standards and edit rules; and*

(iii) *ensure prompt action to address issues identified in clauses (i) and (ii); and*

(E) *mechanisms to provide regular feedback to executive agencies and Shared Service Centers on data quality with respect to telework, which shall include the provision of any human capital data needed to evaluate telework practices.*

(3) **ESTABLISHMENT OF AUTOMATED TELEWORK TRACKING SYSTEMS WITHIN PAYROLL SYSTEMS.**—*The head of each executive*

agency, in consultation (where applicable) with each Shared Service Center that provides payroll or human resources services to that executive agency, shall establish telework tracking within each payroll system that—

(A) is automated; and

(B) conforms to—

(i) the telework data standards and coding requirements issued by the Director of the Office of Personnel Management; and

(ii) the requirements established by the Director of the Office of Personnel Management under paragraph (2).

(4) **ESTABLISHMENT OF ONLINE TOOL.**—Not later than 2 years after the date of enactment of this subsection, the Director of the Office of Personnel Management shall establish and maintain a publicly available online tool that—

(A) makes the data required to be reported under paragraph (2), including the average number of days per period that eligible employees telework, available in an appropriate and readable format;

(B) incorporates appropriate protections for personal and sensitive information reported under paragraph (2); and

(C) uses data visualization or other data presentation techniques to support strategic executive agency workforce planning and talent management objectives.

(d) **MONITORING THE EFFECTS OF TELEWORK ON OFFICE SPACE UTILIZATION AND EXECUTIVE AGENCY PERFORMANCE.**—The head of each executive agency shall—

(1) establish a system to track office space utilization rates that aligns with guidance and benchmarks issued by the Director of the Office of Management and Budget, in coordination with the Administrator of General Services and the Federal Real Property Council established by section 623(a) of title 40, under section 6504(b)(2)(A);

(2) identify a set of indicators, and establish routines using the indicators, to assess and monitor the effects of telework policy on the performance of the executive agency, including, as applicable to the mission of the executive agency—

(A) indicators related to—

(i) customer experience and service, including backlogs and wait times;

(ii) security;

(iii) cost to operations;

(iv) the management of real property and related personal property;

(v) investments in network capacity or communications infrastructure, including technology capabilities to improve efficiency and reduce the use of outdated technology; and

(vi) the ability of the executive agency to recruit and retain top talent; and

(B) any other indicator determined appropriate by the head of the executive agency, including as the result of policy and policy guidance provided under section 6504(b)(2)(B);

(3) not later than 180 days after the date of enactment of this subsection, and as updates are made thereafter—

(A) submit to the Director of the Office of Management and Budget and the Director of the Office of Personnel Management a description of the indicators and routines described in paragraph (2); and

(B) make publicly available on the website of the executive agency the most current version of the indicators and routines described in paragraph (2); and

(4) with respect to the office space utilization rates described in paragraph (1)—

(A) include those rates in the budget justification materials (as defined in section 3(b)(2) of the Federal Funding Accountability and Transparency Act of 2006 (31 U.S.C. 6101 note)) of the executive agency; and

(B) make those rates publicly available.

SEC. 6504. POLICY AND SUPPORT.

(a) * * *

(b) GUIDANCE AND CONSULTATION.—**【The Office of Personnel Management shall】**

(1) OFFICE OF PERSONNEL MANAGEMENT.—*The Office of Personnel Management shall*

【(1)】(A) provide policy and policy guidance for telework in the areas of pay and leave, agency closure, performance management, official worksite, recruitment and retention, and accommodations for employees with disabilities;

【(2)】(B) assist each agency in establishing appropriate qualitative and quantitative measures and teleworking goals; and

【(3)】(C) consult with—

【(A)】(i) the Federal Emergency Management Agency on policy and policy guidance for telework in the areas of continuation of operations and long-term emergencies;

【(B)】(ii) the General Services Administration on policy and policy guidance for telework in the areas of telework centers, travel, technology, equipment, and dependent care; and

【(C)】(iii) the National Archives and Records Administration on policy and policy guidance for telework in the areas of efficient and effective records management and the preservation of records, including Presidential and Vice-Presidential records.

(2) OFFICE OF MANAGEMENT AND BUDGET.—*The Director of the Office of Management and Budget shall take the following actions:*

(A) *In coordination with the Administrator of General Services and the Federal Real Property Council established by section 623(a) of title 40, the following actions:*

(i) *Develop benchmarks for measuring office space utilization that account for the use of telework.*

(ii) *Provide guidance to each executive agency for collecting office space occupancy data regarding the average daily onsite attendance in the office space owned or*

leased by the executive agency, which shall take into consideration—

(I) duties of employees of the executive agency that involve official travel, mobile work, or other job functions requiring such an employee to temporarily report to an offsite location;

(II) variation within a year with respect to the number of employees of the executive agency taking scheduled or unscheduled leave and the duration of that leave; and

(III) data collected from swipes of Personal Identity Verification Cards or Common Access Cards, as applicable, with appropriate protections for personally identifiable information.

(iii) Establish office space utilization rate goals for each executive agency—

(I) of not less than 60 percent; and

(II) that takes into consideration the matters described in subclauses (I) and (II) of clause (ii).

(iv) Until the benchmarks described in clause (i) are developed, and the guidance described in clause (ii) is provided, ensure that each executive agency, not less frequently than quarterly, uses the following formula to calculate office space utilization with respect to the office space that the executive agency leases or owns:

(I) Calculate the usable square feet of the office space so leased or owned, which shall be calculated—

(aa) by using the portion of that office space that is available for occupants, including offices, team rooms, and conference rooms; and

(bb) in accordance with the standard methods of measurement developed by the Building Owners and Managers Association International, as approved by the American National Standards Institute.

(II) Divide the number of usable square feet calculated under subclause (I) by 180.

(III) Divide the daily average of the number of individuals, including contractors, who are present working in the space that is the subject of the calculation under subclause (I) by the quotient obtained under subclause (II), which shall be expressed as a percentage.

(B) In coordination with the Director of the Office of Personnel Management and the Administrator of General Services, provide policy and policy guidance for the indicators and routines described in section 6503(d)(2), including with respect to the identification of additional indicators under section 6503(d)(2)(B).

(c) * * *

(d) * * *

(e) TELEWORK WEBSITE.—The Office of Personnel Management shall—

(1) maintain a central telework website; and

(2) include on that website related—

(A) **telework links** links to Government websites, including a compilation of links to executive agency websites with descriptions of telework policies and indicators and routines described in sections 6502(a)(1)(D) and 6503(d)(2), respectively;

(B) announcements;

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

(D) guidance submitted by the Federal Emergency Management Agency, and the General Services Administration, the General Services Administration, and the Department of State to the Office of Personnel Management not later than **10**30 business days after the date of submission.

* * * * *

SEC. 6505A. REGULATORY AUTHORITY.

(a) *IN GENERAL.*—The Director of the Office of Personnel Management may prescribe regulations to carry out this chapter.

* * * * *

SEC. 6506. REPORTS.

(a) * * *

(b) *REPORTS BY THE OFFICE OF PERSONNEL MANAGEMENT.*—

(1) * * *

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

(A) * * *

(B) * * *

(C) * * *

(D) the agency goal for increasing participation to the extent practicable or necessary for the next reporting period, as indicated by the percent of eligible employees teleworking in each frequency category described under subparagraph (A)(iii);

(E) an explanation of whether or not the agency met the goals for the last reporting period and, if not, what actions are being taken to identify and eliminate barriers to maximizing telework opportunities for the next reporting period;

(F)(D) an assessment of the progress each agency has made in meeting **agency participation rate goals during the reporting period, and other** agency goals relating to telework, such as the impact of telework on—

(i) emergency readiness;

(ii) energy use and carbon emissions;

(iii) recruitment and retention;

(iv) performance;

(v) productivity; **and**

(vi) employee attitudes and opinions regarding telework; **and**

(vii) the ability of the agency to dispose of or consolidate unnecessary and underutilized space or property,

including to reduce the monetary and environmental cost of maintaining that space or property; and

(viii) customer experience and service, including backlogs and wait times;

(E) an explanation of whether or not each executive agency met the goals described in subparagraph (D) for the last reporting period and, if not, what actions are being taken to identify and eliminate barriers to meeting those goals for the next reporting period; and

(F) what actions each executive agency has taken since the last reporting period, and any additional steps the executive agency is planning to take, to—

(i) ensure oversight and quality control with respect to telework; and

(ii) increase the utilization rates of office space owned or leased by the executive agency to not less than 60 percent (or any higher rate established by the Director of the Office of Management and Budget under section 6504(b)(2)(A)); and

(G) the best practices in agency telework programs.

(3) USE OF ONLINE TOOL.—Notwithstanding any other provision of this subsection, the Director of the Office of Personnel Management may elect to carry out this subsection, in whole or in part, through the online tool established under section 6503(c)(4).

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