

Calendar No. 1101

110TH CONGRESS
2D SESSION**S. 1000**

To enhance the Federal Telework Program.

IN THE SENATE OF THE UNITED STATES

MARCH 27, 2007

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

OCTOBER 1 (legislative day, SEPTEMBER 17), 2008

Reported by Mr. LIEBERMAN, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italie*]**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 2007”.

6 **SEC. 2. FEDERAL GOVERNMENT TELEWORK REQUIRE-**
7 **MENT.**

8 (a) **IN GENERAL.—**

1 (1) ELIGIBILITY.—Within 1 year after the date
 2 of enactment of this Act, the head of each Executive
 3 agency shall establish a policy under which each em-
 4 ployee of the agency, except as provided in sub-
 5 section (d), shall be eligible to participate in
 6 telework.

7 (2) PARTICIPATION POLICY.—The policy shall
 8 ensure that eligible employees participate in telework
 9 to the maximum extent possible without diminishing
 10 employee performance or agency operations.

11 (b) APPLICATION TO JUDICIAL BRANCH EMPLOY-
 12 EES.—Within 1 year after the date of enactment of this
 13 Act, the Chief Justice of the United States shall establish
 14 a policy for employees of the judicial branch under which
 15 such employees, except employees designated by the Chief
 16 Justice as employees to whom the policy does not apply,
 17 shall participate in telework to the maximum extent pos-
 18 sible without diminishing employee performance or judicial
 19 operations.

20 (c) APPLICATION TO LEGISLATIVE BRANCH EMPLOY-
 21 EES.—

22 (1) HOUSE OF REPRESENTATIVES.—Within 1
 23 year after the date of enactment of this Act, the
 24 Speaker of the House of Representatives, in con-
 25 sultation with the Minority Leader of the House,

1 shall establish a policy for employees of the House
2 of Representatives under which such employees, ex-
3 cept employees designated by the Speaker as em-
4 ployees to whom the policy does not apply, shall par-
5 ticipate in telework to the maximum extent possible
6 without diminishing employee performance or House
7 operations.

8 (2) SENATE.—Within 1 year after the date of
9 enactment of this Act, the Majority Leader of the
10 Senate, in consultation with the Minority Leader of
11 the Senate, shall establish a policy for employees of
12 the Senate under which such employees, except em-
13 ployees designated by the Majority Leader as em-
14 ployees to whom the policy does not apply, shall par-
15 ticipate in telework to the maximum extent possible
16 without diminishing employee performance or Senate
17 operations.

18 (3) OTHER LEGISLATIVE BRANCH EMPLOY-
19 EES.—Within 1 year after the date of enactment of
20 this Act, the Speaker of the House of Representa-
21 tives and the Majority Leader of the Senate jointly
22 shall establish a policy for employees of the legisla-
23 tive branch who are not employees of either House
24 under which such employees, except employees des-
25 ignated by the Speaker and the Majority Leader as

1 employees to whom the policy does not apply, shall
2 participate in telework to the maximum extent pos-
3 sible without diminishing employee performance or
4 legislative branch operations.

5 ~~(d) INELIGIBLE EMPLOYEES.—~~

6 ~~(1) EXECUTIVE AGENCIES.—~~Subsection (a)(1)
7 does not apply to executive agency employees—

8 ~~(A) whose duties involve the daily handling~~
9 ~~of secure materials, necessary contact with spe-~~
10 ~~cial equipment, or daily physical presence;~~

11 ~~(B) who are assigned to national security~~
12 ~~or intelligence functions; or~~

13 ~~(C) whose functions are otherwise inappro-~~
14 ~~priate for teleworking and which are designated~~
15 ~~by the head of the agency as functions to which~~
16 ~~the policy does not apply.~~

17 ~~(2) JUDICIAL AND LEGISLATIVE BRANCH EM-~~
18 ~~PLOYEES.—~~The Chief Justice and the officers of the
19 Senate and House of Representatives described in
20 subsection (c) may designate as ineligible to partici-
21 pate in telework employees whose duties are the
22 same as, or similar to, the duties described in para-
23 graph (1).

1 **SEC. 3. TRAINING AND MONITORING.**

2 The head of each executive agency shall ensure
3 that—

4 (1) telework training is incorporated in the
5 agency's new employee orientation procedures;

6 (2) periodic employee reviews are conducted for
7 all employees, including those described in section
8 1(a)(3), to ascertain whether telework is appropriate
9 for the employee's job description and the extent to
10 which it is being utilized by the employee.

11 **SEC. 4. TELEWORK MANAGING EMPLOYEE.**

12 (a) **IN GENERAL.**—The head of each executive agen-
13 cy, the Chief Justice, the Speaker of the House of Rep-
14 resentatives, and the Majority Leader of the Senate shall
15 appoint a full time senior level employee of the agency,
16 the judicial branch, the House of Representatives, and the
17 Senate, respectively as the Telework Managing Officer.
18 The Telework Managing Office shall be established within
19 the office of the chief administrative officer or a com-
20 parable office with similar functions.

21 (b) **DUTIES.**—The Telework Managing Officer
22 shall—

23 (1) serve as liaison between employees engaged
24 in teleworking and their employing entity;

25 (2) ensure that the organization's telework pol-
26 icy is communicated effectively to employees;

1 (3) encourage all eligible employees to engage
2 in telework to the maximum practicable extent con-
3 sistent with meeting performance requirements and
4 maintaining operations;

5 (4) assist the head of the agency in the develop-
6 ment and maintenance of agencywide telework poli-
7 cies;

8 (5) educate administrative units on telework
9 policies, programs, and training courses;

10 (6) provide written notification to all employees
11 of specific telework programs and employee eligi-
12 bility;

13 (7) focus on expanding and monitoring agency
14 telework programs;

15 (8) recommend and oversee telework-specific
16 pilot programs for employees and managers, includ-
17 ing tracking performance and monitoring activities;

18 (9) promote teleconferencing devices;

19 (10) develop monthly productivity awards for
20 teleworkers;

21 (11) develop and administer a telework per-
22 formance reporting system; and

23 (12) assist the head of the agency in design-
24 ating employees to telework to continue agency op-
25 erations in the event of a major disaster (as defined

1 in section 102 of the Robert T. Stafford Disaster
 2 Relief and Emergency Assistance Act (42 U.S.C.
 3 5122)).

4 (c) REPORT.—The Telework Managing Officer shall
 5 submit a report to the head of the employing agency, the
 6 Chief Justice, the Speaker of the House of Representa-
 7 tives, or the Majority Leader of the Senate, as the case
 8 may be, and the Comptroller General at least once every
 9 12 months that includes a statement of the applicable
 10 telework policy, a description of measures in place to carry
 11 out the policy, and an analysis of the participation by em-
 12 ployees of the entity in teleworking during the preceding
 13 12-month period.

14 **SEC. 5. ANNUAL TELEWORK AGENCY RATING.**

15 (a) IN GENERAL.—The Comptroller General shall es-
 16 tablish a system for evaluating—

17 (1) the telework policy of each executive agency,
 18 the judicial branch, and the legislative branch; and

19 (2) on an annual basis the participation in tele-
 20 working by their employees.

21 (b) REPORT.—The Comptroller General shall publish
 22 a report each year rating—

23 (1) the telework policy of each entity to which
 24 this Act applies;

1 (2) the degree of participation by employees of
 2 each such entity in teleworking during the 12-month
 3 period covered by the report; and

4 (3) for each executive agency—

5 (A) the number of employees in the agen-
 6 cy;

7 (B) the number of those employees who
 8 are eligible to telework;

9 (C) the number of employees who engage
 10 on a regular basis in teleworking; and

11 (D) the number of employees who engage
 12 on an occasional or sporadic basis in tele-
 13 working.

14 **SEC. 7 DEFINITIONS.**

15 In this Act:

16 (1) **EMPLOYEE.**—The term “employee” has the
 17 meaning given that term by section 8101(1) of title
 18 5, United States Code, but does not include—

19 (A) justices of the Supreme Court, judges
 20 of Courts of Appeals, or judges of the District
 21 Courts;

22 (B) a Member of the United States House
 23 of Representatives; or

24 (C) a United States Senator.

1 ~~(2) EXECUTIVE AGENCY.—The term “Executive~~
 2 ~~agency” has the meaning given that term by section~~
 3 ~~105 of title 5, United States Code.~~

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

9 ~~(A) reduces or eliminates the employee’s~~
 10 ~~commute between his or her residence and his~~
 11 ~~or her place of employment; and~~

12 ~~(B) occurs at least 2 business days per~~
 13 ~~week on a recurring basis.~~

14 **SECTION 1. SHORT TITLE.**

15 *This Act may be cited as the “Telework Enhancement*
 16 *Act of 2007”.*

17 **SEC. 2. DEFINITIONS.**

18 *In this Act:*

19 (1) *EMPLOYEE.—The term “employee” has the*
 20 *meaning given that term by section 2105 of title 5,*
 21 *United States Code.*

22 (2) *EXECUTIVE AGENCY.—The term “executive*
 23 *agency” has the meaning given that term by section*
 24 *105 of title 5, United States Code.*

1 (3) *NONCOMPLIANT.*—*The term “noncompliant”*
 2 *means not conforming to the requirements under this*
 3 *Act.*

4 (4) *TELEWORK.*—*The term “telework” means a*
 5 *work arrangement in which an employee regularly*
 6 *performs officially assigned duties at home or other*
 7 *worksites geographically convenient to the residence of*
 8 *the employee during at least 20 percent of each pay*
 9 *period that the employee is performing officially as-*
 10 *signed duties.*

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

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

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

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

19 (3) *notify all employees of the agency of their eli-*
 20 *gibility to telework.*

21 (b) *PARTICIPATION.*—*The policy described under sub-*
 22 *section (a) shall—*

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

1 (2) *require a written agreement between an*
 2 *agency manager and an employee authorized to*
 3 *telework in order for that employee to participate in*
 4 *telework;*

5 (3) *provide that an employee may not be author-*
 6 *ized to telework if the performance of that employee*
 7 *does not comply with the terms of the written agree-*
 8 *ment between the agency manager and that employee;*

9 (4) *except in emergency situations as determined*
 10 *by an agency head, not apply to any employee of the*
 11 *agency whose official duties require daily physical*
 12 *presence for activity with equipment or handling of*
 13 *secure materials; and*

14 (5) *determine the use of telework as part of the*
 15 *continuity of operations plans the agency in the event*
 16 *of an emergency.*

17 **SEC. 4. TRAINING AND MONITORING.**

18 *The head of each executive agency shall ensure that—*

19 (1) *an interactive telework training program is*
 20 *provided to—*

21 (A) *employees eligible to participate in the*
 22 *telework program of the agency; and*

23 (B) *all managers of teleworkers;*

1 (2) *no distinction is made between teleworkers*
 2 *and nonteleworkers for the purposes of performance*
 3 *appraisals; and*

4 (3) *when determining what constitutes dimin-*
 5 *ished employee performance, the agency shall consult*
 6 *the established performance management guidelines of*
 7 *the Office of Personnel Management.*

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 closure,*
 17 *performance management, official worksite, recruit-*
 18 *ment and retention, and accommodations for employ-*
 19 *ees with disabilities; and*

20 (2) *consult with—*

21 (A) *the Federal Emergency Management*
 22 *Agency on policy and policy guidance for*
 23 *telework in the areas of continuation of oper-*
 24 *ations and long-term emergencies; and*

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

5 (c) *CONTINUITY OF OPERATIONS PLANS.*—During any
 6 period that an agency is operating under a continuity of
 7 operations plan, that plan shall supersede any telework pol-
 8 icy.

9 (d) *TELEWORK WEBSITE.*—The Office of Personnel
 10 Management shall—

11 (1) maintain a central telework website; and

12 (2) include on that website related—

13 (A) telework links;

14 (B) announcements;

15 (C) guidance developed by the Office of Per-
 16 sonnel Management; and

17 (D) guidance submitted by the Federal
 18 Emergency Management Agency, and the Gen-
 19 eral Services Administration to the Office of Per-
 20 sonnel Management not later than 10 business
 21 days after the date of submission.

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

23 (a) *IN GENERAL.*—

24 (1) *APPOINTMENT.*—The head of each executive
 25 agency shall appoint an employee of the agency as the

1 *Telework Managing Officer. The Telework Managing*
 2 *Officer shall be established within the Office of the*
 3 *Chief Human Capital Officer or a comparable office*
 4 *with similar functions.*

5 (2) *TELEWORK COORDINATORS.—*

6 (A) *APPROPRIATIONS ACT, 2004.—Section*
 7 *627 of the Departments of Commerce, Justice,*
 8 *and State, the Judiciary, and Related Agencies*
 9 *Appropriations Act, 2004 (Public Law 108–199;*
 10 *118 Stat. 99) is amended by striking “designate*
 11 *a ‘Telework Coordinator’ to be” and inserting*
 12 *“appoint a Telework Managing Officer to be”.*

13 (B) *APPROPRIATIONS ACT, 2005.—Section*
 14 *622 of the Departments of Commerce, Justice,*
 15 *and State, the Judiciary, and Related Agencies*
 16 *Appropriations Act, 2005 (Public Law 108–447;*
 17 *118 Stat. 2919) is amended by striking “des-*
 18 *ignate a ‘Telework Coordinator’ to be” and in-*
 19 *serting “appoint a Telework Managing Officer to*
 20 *be”.*

21 (b) *DUTIES.—The Telework Managing Officer shall—*

22 (1) *be devoted to policy development and imple-*
 23 *mentation related to agency telework programs;*

24 (2) *serve as—*

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

3 (B) a resource for managers and employees;
4 and

5 (C) a primary agency point of contact for
6 the Office of Personnel Management on telework
7 matters; and

8 (3) perform other duties as the applicable ap-
9 pointing authority may assign.

10 **SEC. 7. ANNUAL REPORT TO CONGRESS.**

11 (a) *SUBMISSION OF REPORTS.*—Not later than 18
12 months after the date of enactment of this Act and on an
13 annual basis thereafter, the Director of the Office of Per-
14 sonnel Management shall—

15 (1) submit a report addressing the telework pro-
16 grams of each executive agency to—

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

19 (B) the Committee on Oversight and Gov-
20 ernment Reform of the House of Representatives;
21 and

22 (2) transmit a copy of the report to the Comp-
23 troller General and the Office of Management and
24 Budget.

1 (b) *CONTENTS.*—*Each report submitted under this sec-*
2 *tion shall include—*

3 (1) *the telework policy, the measures in place to*
4 *carry out the policy, and an analysis of employee*
5 *telework participation during the preceding 12-month*
6 *period provided by each executive agency;*

7 (2) *an assessment of the progress of each agency*
8 *in maximizing telework opportunities for employees*
9 *of that agency without diminishing employee per-*
10 *formance or agency operations;*

11 (3) *the definition of telework and telework poli-*
12 *cies and any modifications to such definitions;*

13 (4) *the degree of participation by employees of*
14 *each agency in teleworking during the period covered*
15 *by the evaluation, including—*

16 (A) *the number and percent of the employ-*
17 *ees in the agency who are eligible to telework;*

18 (B) *the number and percent of employees*
19 *who engage in telework;*

20 (C) *the number and percent of eligible em-*
21 *ployees in each agency who have declined the op-*
22 *portunity to telework; and*

23 (D) *the number of employees who were not*
24 *authorized, willing, or able to telework and the*
25 *reason;*

1 (5) *the extent to which barriers to maximize*
 2 *telework opportunities have been identified and elimi-*
 3 *nated; and*

4 (6) *best practices in agency telework programs.*

5 **SEC. 8. COMPLIANCE OF EXECUTIVE AGENCIES.**

6 (a) *EXECUTIVE AGENCIES.*—*An executive agency shall*
 7 *be in compliance with this Act if each employee of that*
 8 *agency participating in telework regularly performs offi-*
 9 *cially assigned duties at home or other worksites geographi-*
 10 *cally convenient to the residence of the employee during at*
 11 *least 20 percent of each pay period that the employee is*
 12 *performing officially assigned duties.*

13 (b) *AGENCY MANAGER REPORTS.*—*Not later than 180*
 14 *days after the establishment of a policy described under sec-*
 15 *tion 3, and annually thereafter, each agency manager shall*
 16 *submit a report to the Chief Human Capital Officer and*
 17 *Telework Managing Officer of that agency that contains a*
 18 *summary of—*

19 (1) *efforts to promote telework opportunities for*
 20 *employees supervised by that manager; and*

21 (2) *any obstacles which hinder the ability of that*
 22 *manager to promote telework opportunities.*

23 (c) *CHIEF HUMAN CAPITAL OFFICER REPORTS.*—

24 (1) *IN GENERAL.*—*Each year the Chief Human*
 25 *Capital Officer of each agency, in consultation with*

1 *the Telework Managing Officer of that agency, shall*
 2 *submit a report to the Chair and Vice Chair of the*
 3 *Chief Human Capital Offices Council on agency*
 4 *management efforts to promote telework.*

5 (2) *REVIEW AND INCLUSION OF RELEVANT IN-*
 6 *FORMATION.—The Chair and Vice Chair of the Chief*
 7 *Human Capital Offices Council shall—*

8 (A) *review the reports submitted under*
 9 *paragraph (1);*

10 (B) *include relevant information from the*
 11 *submitted reports in the annual report to Con-*
 12 *gress required under section 7(b)(2); and*

13 (C) *use that relevant information for other*
 14 *purposes related to the strategic management of*
 15 *human capital.*

16 (d) *COMPLIANCE REPORTS.—Not later than 90 days*
 17 *after the date of submission of each report under section*
 18 *7, the Office of Management and Budget shall submit a re-*
 19 *port to Congress that—*

20 (1) *identifies and recommends corrective actions*
 21 *and time frames for each executive agency that the*
 22 *Office of Management and Budget determines is non-*
 23 *compliant; and*

24 (2) *describes progress of noncompliant executive*
 25 *agencies, justifications of any continuing noncompli-*

1 *ance, and any recommendations for corrective actions*
 2 *planned by the Office of Management and Budget or*
 3 *the executive agency to eliminate noncompliance.*

4 **SEC. 9. CONGRESS AND LEGISLATIVE BRANCH AGENCIES.**

5 (a) *DEFINITION.*—*In this section, the term “legislative*
 6 *branch agencies” means the Government Accountability Of-*
 7 *fice, the Library of Congress, the Government Printing Of-*
 8 *fice, the Capitol Guide Service, the Capitol Police, the Con-*
 9 *gressional Budget Office, the Office of the Architect of the*
 10 *Capitol, the Office of the Attending Physician, and the Of-*
 11 *fice of Compliance.*

12 (b) *APPLICATION TO LEGISLATIVE BRANCH EMPLOY-*
 13 *EES.*—

14 (1) *SENATE.*—

15 (A) *IN GENERAL.*—*Not later than 180 days*
 16 *after the date of enactment of this Act, the Com-*
 17 *mittee on Rules and Administration of the Sen-*
 18 *ate, in consultation with the majority leader and*
 19 *minority leader of the Senate, shall establish*
 20 *guidelines for a policy under which employees of*
 21 *the Senate, except employees designated by the*
 22 *applicable employing authority to whom the pol-*
 23 *icy does not apply, may be authorized to*
 24 *telework.*

1 (B) *ESTABLISHMENT OF POLICIES.*—Not
 2 *later than 180 days after the establishment of*
 3 *telework policy guidelines under subparagraph*
 4 *(A), each employing authority that is included*
 5 *under such guidelines shall submit to the Com-*
 6 *mittee on Rules and Administration of the Sen-*
 7 *ate a telework policy for applicable employees.*

8 (2) *HOUSE OF REPRESENTATIVES.*—

9 (A) *IN GENERAL.*—Not later than 180 days
 10 *after the date of enactment of this Act, the Com-*
 11 *mittee on House Administration of the House of*
 12 *Representatives, in consultation with the Speak-*
 13 *er and minority leader of the House of Rep-*
 14 *resentatives, shall establish guidelines for a pol-*
 15 *icy under which employees of the House of Rep-*
 16 *resentatives, except employees designated by the*
 17 *applicable employing authority to whom the pol-*
 18 *icy does not apply, may be authorized to*
 19 *telework.*

20 (B) *ESTABLISHMENT OF POLICIES.*—Not
 21 *later than 180 days after the establishment of*
 22 *telework policy guidelines under subparagraph*
 23 *(A), each employing authority that is included*
 24 *under such guidelines shall submit to the Com-*
 25 *mittee on House Administration of the House of*

1 *Representatives a telework policy for applicable*
 2 *employees.*

3 (3) *LEGISLATIVE BRANCH AGENCIES.*—*Not later*
 4 *than 180 days after the date of enactment of this Act,*
 5 *the heads of the legislative branch agencies shall estab-*
 6 *lish a policy for their respective employees under*
 7 *which such employees, except employees designated by*
 8 *the heads of each agency to whom the policy does not*
 9 *apply, may be authorized to telework.*

10 (4) *TRAINING.*—*Each employee and manager of*
 11 *that employee participating in telework under a pol-*
 12 *icy established under this section shall be required to*
 13 *participate in a telework training program.*

14 (5) *SIMILAR POLICIES.*—

15 (A) *IN GENERAL.*—*The policies established*
 16 *under this section may be similar to the policies*
 17 *established by executive agencies under this Act.*

18 (B) *RULE OF CONSTRUCTION.*—*Nothing in*
 19 *this Act shall be construed as requiring the ap-*
 20 *plication of sections 1 through 8 to any policy*
 21 *established under this section.*

22 **SEC. 10. EXTENSION OF TRAVEL EXPENSES TEST PRO-**
 23 **GRAMS.**

24 (a) *IN GENERAL.*—*Section 5710 of title 5, United*
 25 *States Code, is amended—*

1 (1) in subsection (a)(1), by striking “for a period
2 not to exceed 24 months”; and

3 (2) in subsection (e), by striking “7 years” and
4 inserting “16 years”.

5 (b) *EFFECTIVE DATE.*—*The amendments made by this*
6 *section shall take effect as though enacted as part of the*
7 *Travel and Transportation Reform Act of 1998 (Public*
8 *Law 105–264; 112 Stat. 2350).*

Calendar No. 1101

110TH CONGRESS
2^D Session

S. 1000

A BILL

To enhance the Federal Telework Program.

OCTOBER 1 (legislative day, SEPTEMBER 17), 2008

Reported with an amendment