

**SA 4195.** Mr. ENZI submitted an amendment intended to be proposed to amendment SA 4174 proposed by Mr. REID to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 4 of the amendment, between lines 7 and 8, insert the following:

(6) Public safety officers frequently endanger their own lives to protect the rights of individuals in their communities. In return, each officer deserves the optimal protection of his or her own rights under the law

(7) The health and safety of the Nation and the best interests of public security are furthered when employees are assured that their collective bargaining representatives have been selected in a free, fair and democratic manner.

(8) An employee whose wages are subject to compulsory assessment for any purpose not supported or authorized by such employee is susceptible to job dissatisfaction. Job dissatisfaction negatively affects job performance, and, in the case of public safety officers, the welfare of the general public.

**SEC. 4002A. PUBLIC SAFETY OFFICER BILL OF RIGHTS.**

(a) IN GENERAL.—A State law described in section 4004(a) shall—

(1) provide for the selection of an exclusive bargaining representative by public safety officer employees only through the use of a democratic, government-supervised, secret ballot election upon the request of the employer or any affected employee;

(2) ensure that public safety employers recognize the employees' labor organization, freely chosen by a majority of the employees pursuant to a law that provides the democratic safeguards set forth in paragraph (1), to agree to bargain with the labor organization, and to commit any agreements to writing in a contract or memorandum of understanding; and

(3) provide that—

(A) no public safety officer shall, as a condition of employment, be required to pay any amount in dues or fees to any labor organization for any purpose other than the direct and demonstrable costs associated with collective bargaining; and

(B) a labor organization shall not collect from any public safety officer any additional amount without full disclosure of the intended and actual use of such funds, and without the public safety officer's written consent.

(b) APPLICABILITY OF DISCLOSURE REQUIREMENTS.—Notwithstanding any other provision of law, any labor organization that represents or seeks to represent public safety officers under State law or this title, or in accordance with regulations promulgated by the Federal Labor Relations Authority, shall be subject to the requirements of title II of the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 432 et seq.) as if such public safety labor organization was a labor organization defined in section 3(i) of such Act (29 U.S.C. 402(i)).

(c) APPLICATION.—Notwithstanding any other provision of law, the provisions of this section shall apply to all States.

**SA 4196.** Mr. ENZI submitted an amendment intended to be proposed to amendment SA 4174 proposed by Mr. REID to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer

jobs for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 15 of the amendment, strike lines 11 through 22, and insert the following:

**SEC. 4006. STRIKES AND LOCKOUTS PROHIBITED.**

Notwithstanding any rights or responsibilities provided under State law or pursuant to any regulations issued under section 4005, a labor organization may not call, encourage, condone, or fail to take all actions necessary to prevent or end, and a public safety employee may not engage in or otherwise support, any strike (including sympathy strikes), work slowdown, sick out, or any other job action or concerted, full or partial refusal to work against any public sector employer. A public safety employer may not engage in a lockout of public safety officers.

**SA 4197.** Mr. ENZI submitted an amendment intended to be proposed to amendment SA 4174 proposed by Mr. REID to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 18 of the amendment, between lines 7 and 8, insert the following and redesignate accordingly:

(1) HARMONIZING WITH FEDERAL LAW.—

(A) EXEMPTION.—Notwithstanding any other provision of this title, a governor or the legislative body of a State, or a mayor or other chief executive officer or authority or the legislative body of a political subdivision, may exempt from the requirements established under this title or otherwise any group of public safety officers whose job function is similar to the job function performed by any group of Federal employees that is excluded from collective bargaining under Federal law or an Executive order.

(B) TREATMENT OF CERTAIN EMPLOYEES.—Notwithstanding any provision of State law, supervisory, managerial, and confidential employees employed by public safety employers shall be treated in the same manner for purposes of collective-bargaining as individuals employed in the same capacity by any employer covered under the provisions of the National Labor Relations Act (29 U.S.C. 151 et seq.).

(C) RULE OF CONSTRUCTION.—Notwithstanding any provision of this title, nothing in this title shall be construed to require mandatory bargaining except to the extent, and with regard to the subjects, that mandatory bargaining is required between the Federal Government and any of its public safety employees.

**SA 4198.** Mr. ENZI submitted an amendment intended to be proposed to amendment SA 4174 proposed by Mr. REID to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

**SEC. 4010. NONAPPLICATION OF PROVISIONS.**

Notwithstanding any State law or regulation issued under section 4005, the rights and responsibilities set forth in section 4004(b) shall not apply to any political subdivision of any State having a population of less than

100,000, or that employs fewer than 150 uniformed public safety officers.

**SA 4199.** Mrs. GILLIBRAND submitted an amendment intended to be proposed by her to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 38, after line 21, insert the following:

OFFICE OF REFUGEE RESETTLEMENT  
REFUGEE SCHOOL IMPACT GRANT PROGRAM

For an additional amount for the Office of Refugee Resettlement, \$2,000,000, which shall be used for the Refugee School Impact Grant Program to help schools accommodate and provide services for Haitian refugee students following the earthquake in Port-au-Prince on January 12, 2010.

NOTICE OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

**Mr. BINGAMAN.** Mr. President, I would like to announce for the information of the Senate and the public that a field hearing has been scheduled before the Subcommittee on Public Lands and Forests. The hearing will be held on Friday, June 4, 2010, at 1 p.m. in the Barnes Room of the Deschutes Public Services Center Building, 1300 NW Wall Street, Bend, Oregon.

The purpose of the hearing is to receive testimony on S. 2895, to restore forest landscapes, protect old growth forests, and manage national forests in the eastside forests of the State of Oregon, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send it to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510-6150, or by email to testimony@energy.senate.gov.

For further information, please contact Scott Miller at (202) 224-5488 or Alison Seyferth at (202) 224-4905.

COMMITTEE ON INDIAN AFFAIRS

**Mr. DORGAN.** Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Wednesday, May 26, 2010, at 10 a.m. in room 628 of the Dirksen Senate Office Building to conduct a hearing on the President's Nomination of Tracie L. Stevens to serve as Chairman of the National Indian Gaming Commission.

Those wishing additional information may contact the Indian Affairs Committee at (202) 224-2251.

PRIVILEGES OF THE FLOOR

**Mr. COCHRAN.** Mr. President, I ask unanimous consent that Jennifer Mitchell, a military fellow assigned to the Appropriations Committee, be allowed floor privileges for the period of time the war supplemental bill is on the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, I ask unanimous consent that Robin McLaughry, a detailee on Senator CONRAD's Budget Committee staff, be granted the privilege of the floor during the floor consideration of H.R. 4899.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### TELEWORK ENHANCEMENT ACT OF 2010

Mr. DURBIN. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 362, S. 707.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 707) to enhance the Federal Telework Program.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Homeland Security and Governmental Affairs, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italics.)

S. 707

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Telework Enhancement Act of [2009] 2010".

#### SEC. 2. DEFINITIONS.

In this Act:

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

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

(3) TELEWORK.—The term "telework" means a work arrangement in which an employee performs officially assigned duties at home or other worksites geographically convenient to the residence of the employee.

#### SEC. 3. EXECUTIVE AGENCIES TELEWORK REQUIREMENT.

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

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

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

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

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

(1) ensure that telework does not diminish employee performance or agency operations;

(2) require a written agreement that—

(A) is entered into between an agency manager and an employee authorized to telework, that outlines the specific work arrangement that is agreed to; and

(B) is mandatory in order for any employee to participate in telework;

(3) provide that an employee may not be authorized to telework if the performance of that employee does not comply with the

terms of the written agreement between the agency manager and that employee;

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

(A) direct handling of secure materials; or  
(B) on-site activity that cannot be handled remotely or at an alternate worksite; and

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

#### SEC. 4. TRAINING AND MONITORING.

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

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

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

(B) all managers of teleworkers;

(2) except as provided under subsection (b), an employee has successfully completed the interactive telework training program before that employee enters into a written agreement to telework described under section 3(b)(2);

(3) [No distinction is made between] teleworkers and nonteleworkers are treated the same for purposes of—

(A) periodic appraisals of job performance of employees;

(B) training, rewarding, reassigning, promoting, reducing in grade, retaining, and removing employees;

(C) work requirements; or

(D) other acts involving managerial discretion; and

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

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

#### SEC. 5. POLICY AND SUPPORT.

(a) AGENCY CONSULTATION WITH THE OFFICE OF PERSONNEL MANAGEMENT.—Each executive agency shall consult with the Office of Personnel Management in developing telework policies.

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

(1) 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) assist each agency in establishing appropriate qualitative and quantitative measures and teleworking goals; and

(3) consult with—

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

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

(c) CONTINUITY OF OPERATIONS PLANS.—

(1) INCORPORATION INTO CONTINUITY OF OPERATIONS PLANS.—Each executive agency shall incorporate telework into the continuity of operations plan of that agency.

(2) CONTINUITY OF OPERATIONS PLANS SUPERSEDE TELEWORK POLICY.—During any period that an executive agency is operating under a continuity of operations plan, that plan shall supersede any telework policy.

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

(1) maintain a central telework website;

(2) include on that website related—

(A) telework links;

(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 to the Office of Personnel Management not later than 10 business days after the date of submission.

#### SEC. 6. TELEWORK MANAGING OFFICER.

(a) IN GENERAL.—

(1) DESIGNATION.—The head of each executive agency shall designate an employee of the agency as the Telework Managing Officer. The Telework Managing Officer shall be established within the Office of the Chief Human Capital Officer or a comparable office with similar functions.

(2) TELEWORK COORDINATORS.—

(A) APPROPRIATIONS ACT, 2003.—Section 623 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2003 (Public Law 108-7; 117 Stat. 103) is amended by striking "designate a 'Telework Coordinator' to be" and inserting "designate a Telework Coordinator to be".

(B) APPROPRIATIONS ACT, 2004.—Section 627 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2004 (Public Law 108-199; 118 Stat. 99) is amended by striking "designate a 'Telework Coordinator' to be" and inserting "designate a Telework Managing Officer to be".

(C) APPROPRIATIONS ACT, 2005.—Section 622 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2005 (Public Law 108-447; 118 Stat. 2919) is amended by striking "designate a 'Telework Coordinator' to be" and inserting "designate a Telework Managing Officer to be".

(D) APPROPRIATIONS ACT, 2006.—Section 617 of the Science, State, Justice, Commerce, and Related Agencies Appropriations Act, 2006 (Public Law 109-108; 119 Stat. 2340) is amended by striking "maintain a 'Telework Coordinator' to be" and inserting "maintain a Telework Managing Officer to be".

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

(1) be devoted to policy development and implementation related to agency telework programs;

(2) serve as—

(A) an advisor for agency leadership, including the Chief Human Capital Officer;

(B) a resource for managers and employees;

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

(3) perform other duties as the applicable delegating authority may assign.

#### SEC. 7. REPORTS.

(a) DEFINITION.—In this section, the term "executive agency" shall not include the Government Accountability Office.

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

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

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

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