

111TH CONGRESS
2^D SESSION

S. 707

AN ACT

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Telework Enhance-
3 ment Act of 2010”.

4 **SEC. 2. DEFINITIONS.**

5 In this Act:

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

9 (2) **EXECUTIVE AGENCY.**—Except as provided
10 in section 7, the term “executive agency” has the
11 meaning given that term under section 105 of title
12 5, United States Code.

13 (3) **TELEWORK.**—The term “telework” means a
14 work arrangement in which an employee performs
15 officially assigned duties at home or other worksites
16 geographically convenient to the residence of the em-
17 ployee.

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

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

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

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

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

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

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

7 (2) require a written agreement that—

8 (A) is entered into between an agency
9 manager and an employee authorized to
10 telework, that outlines the specific work ar-
11 rangement that is agreed to; and

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

14 (3) provide that an employee may not be au-
15 thorized to telework if the performance of that em-
16 ployee does not comply with the terms of the written
17 agreement between the agency manager and that
18 employee;

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

23 (A) direct handling of secure materials; or

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

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

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

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

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

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

11 (B) all managers of teleworkers;

12 (2) except as provided under subsection (b), an
13 employee has successfully completed the interactive
14 telework training program before that employee en-
15 ters into a written agreement to telework described
16 under section 3(b)(2);

17 (3) teleworkers and nonteleworkers are treated
18 the same for purposes of—

19 (A) periodic appraisals of job performance
20 of employees;

21 (B) training, rewarding, reassigning, pro-
22 moting, reducing in grade, retaining, and re-
23 moving employees;

24 (C) work requirements; or

1 (D) other acts involving managerial discre-
2 tion; and

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

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

14 **SEC. 5. POLICY AND SUPPORT.**

15 (a) AGENCY CONSULTATION WITH THE OFFICE OF
16 PERSONNEL MANAGEMENT.—Each executive agency shall
17 consult with the Office of Personnel Management in devel-
18 oping telework policies.

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

21 (1) provide policy and policy guidance for
22 telework in the areas of pay and leave, agency clo-
23 sure, performance management, official worksite, re-
24 cruitment and retention, and accommodations for
25 employees with disabilities;

1 (2) assist each agency in establishing appro-
2 priate qualitative and quantitative measures and
3 teleworking goals; and

4 (3) consult with—

5 (A) the Federal Emergency Management
6 Agency on policy and policy guidance for
7 telework in the areas of continuation of oper-
8 ations and long-term emergencies; and

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

13 (c) CONTINUITY OF OPERATIONS PLANS.—

14 (1) INCORPORATION INTO CONTINUITY OF OP-
15 ERATIONS PLANS.—Each executive agency shall in-
16 corporate telework into the continuity of operations
17 plan of that agency.

18 (2) CONTINUITY OF OPERATIONS PLANS SUPER-
19 SEDE TELEWORK POLICY.—During any period that
20 an executive agency is operating under a continuity
21 of operations plan, that plan shall supersede any
22 telework policy.

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

25 (1) maintain a central telework website; and

- 1 (2) include on that website related—
- 2 (A) telework links;
- 3 (B) announcements;
- 4 (C) guidance developed by the Office of
- 5 Personnel Management; and
- 6 (D) guidance submitted by the Federal
- 7 Emergency Management Agency, and the Gen-
- 8 eral Services Administration to the Office of
- 9 Personnel Management not later than 10 busi-
- 10 ness days after the date of submission.

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

12 (a) IN GENERAL.—

13 (1) DESIGNATION.—The head of each executive

14 agency shall designate an employee of the agency as

15 the Telework Managing Officer. The Telework Man-

16 aging Officer shall be established within the Office

17 of the Chief Human Capital Officer or a comparable

18 office with similar functions.

19 (2) TELEWORK COORDINATORS.—

20 (A) APPROPRIATIONS ACT, 2003.—Section

21 623 of the Departments of Commerce, Justice,

22 and State, the Judiciary, and Related Agencies

23 Appropriations Act, 2003 (Public Law 108–7;

24 117 Stat. 103) is amended by striking “des-

25 ignate a ‘Telework Coordinator’ to be” and in-

1 serting “designate a Telework Managing Officer
2 to be”.

3 (B) APPROPRIATIONS ACT, 2004.—Section
4 627 of the Departments of Commerce, Justice,
5 and State, the Judiciary, and Related Agencies
6 Appropriations Act, 2004 (Public Law 108–
7 199; 118 Stat. 99) is amended by striking “des-
8 ignate a ‘Telework Coordinator’ to be” and in-
9 serting “designate a Telework Managing Officer
10 to be”.

11 (C) APPROPRIATIONS ACT, 2005.—Section
12 622 of the Departments of Commerce, Justice,
13 and State, the Judiciary, and Related Agencies
14 Appropriations Act, 2005 (Public Law 108–
15 447; 118 Stat. 2919) is amended by striking
16 “designate a ‘Telework Coordinator’ to be” and
17 inserting “designate a Telework Managing Offi-
18 cer to be”.

19 (D) APPROPRIATIONS ACT, 2006.—Section
20 617 of the Science, State, Justice, Commerce,
21 and Related Agencies Appropriations Act, 2006
22 (Public Law 109–108; 119 Stat. 2340) is
23 amended by striking “maintain a ‘Telework Co-
24 ordinator’ to be” and inserting “maintain a
25 Telework Managing Officer to be”.

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

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

5 (2) serve as—

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

8 (B) a resource for managers and employ-
9 ees; and

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

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

15 **SEC. 7. REPORTS.**

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

19 (b) REPORTS BY THE OFFICE OF PERSONNEL MAN-
20 AGEMENT.—

21 (1) SUBMISSION OF REPORTS.—Not later than
22 18 months after the date of enactment of this Act
23 and on an annual basis thereafter, the Director of
24 the Office of Personnel Management, in consultation
25 with Chief Human Capital Officers Council, shall—

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

4 (i) the Committee on Homeland Secu-
5 rity and Governmental Affairs of the Sen-
6 ate; and

7 (ii) the Committee on Oversight and
8 Government Reform of the House of Rep-
9 resentatives; and

10 (B) transmit a copy of the report to the
11 Comptroller General and the Office of Manage-
12 ment and Budget.

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

15 (A) the degree of participation by employ-
16 ees of each executive agency in teleworking dur-
17 ing the period covered by the report (and for
18 each executive agency whose head is referred to
19 under section 5312 of title 5, United States
20 Code, the degree of participation in each bu-
21 reau, division, or other major administrative
22 unit of that agency), including—

23 (i) the total number of employees in
24 the agency;

1 (ii) the number and percent of em-
2 ployees in the agency who are eligible to
3 telework; and

4 (iii) the number and percent of eligi-
5 ble employees in the agency who are tele-
6 working—

7 (I) 3 or more days per pay pe-
8 riod;

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

10 (III) once per month; and

11 (IV) on an occasional, episodic,
12 or short-term basis;

13 (B) the method for gathering telework
14 data in each agency;

15 (C) if the total number of employees tele-
16 working is 10 percent higher or lower than the
17 previous year in any agency, the reasons for the
18 positive or negative variation;

19 (D) the agency goal for increasing partici-
20 pation to the extent practicable or necessary for
21 the next reporting period, as indicated by the
22 percent of eligible employees teleworking in
23 each frequency category described under sub-
24 paragraph (A)(iii);

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

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

12 (i) emergency readiness;

13 (ii) energy use;

14 (iii) recruitment and retention;

15 (iv) performance;

16 (v) productivity; and

17 (vi) employee attitudes and opinions

18 regarding telework; and

19 (G) the best practices in agency telework
20 programs.

21 (c) COMPTROLLER GENERAL REPORTS.—

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

24 (A) IN GENERAL.—Not later than 18
25 months after the date of enactment of this Act

1 and on an annual basis thereafter, the Comp-
2 troller General shall submit a report addressing
3 the telework program of the Government Ac-
4 countability Office to—

5 (i) the Committee on Homeland Secu-
6 rity and Governmental Affairs of the Sen-
7 ate; and

8 (ii) the Committee on Oversight and
9 Government Reform of the House of Rep-
10 resentatives.

11 (B) CONTENTS.—Each report submitted
12 by the Comptroller General shall include the
13 same information as required under subsection
14 (b) applicable to the Government Accountability
15 Office.

16 (2) REPORT TO CONGRESS ON OFFICE OF PER-
17 SONNEL MANAGEMENT REPORT.—Not later than 6
18 months after the submission of the first report to
19 Congress required under subsection (b), the Comp-
20 troller General shall review that report required
21 under subsection (b) and submit a report to Con-
22 gress on the progress each executive agency has
23 made towards the goals established under section
24 5(b)(2).

25 (d) CHIEF HUMAN CAPITAL OFFICER REPORTS.—

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

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

10 (A) review the reports submitted under
11 paragraph (1);

12 (B) include relevant information from the
13 submitted reports in the annual report to Con-
14 gress required under subsection (b); and

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

18 **SEC. 8. AUTHORITY FOR TELEWORK TRAVEL EXPENSES**

19 **TEST PROGRAMS.**

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

1 **“§5711. Authority for telework travel expenses test**
2 **programs**

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

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

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

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

1 “(b) The Administrator shall transmit a copy of any
2 test program approved by the Administrator under this
3 section, and the rationale for approval, to the appropriate
4 committees of Congress at least 30 days before the effec-
5 tive date of the program.

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

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

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

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

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

18 or

19 “(D) any other information the agency deter-
20 mines useful to aid the Administrator, Telework
21 Managing Officer, and Congress in understanding
22 the test program and the impact of the program.

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

1 “(e) The authority to conduct test programs under
 2 this section shall expire 7 years after the date of the enact-
 3 ment of the Telework Enhancement Act of 2010.”.

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

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

8 **SEC. 9. PATENT AND TRADEMARK OFFICE TRAVEL EX-**
 9 **PENSES TEST PROGRAM.**

10 (a) IN GENERAL.—Section 5710 of title 5, United
 11 States Code, is amended—

12 (1) in subsection (a)(1), by striking “for a pe-
 13 riod not to exceed 24 months”; and

14 (2) by striking subsection (e) and inserting the
 15 following:

16 “(e)(1) The Patent and Trademark Office shall con-
 17 duct a test program under this section.

18 “(2) In conducting the program under this sub-
 19 section, the Patent and Trademark Office may pay any
 20 travel expenses of an employee for travel to and from a
 21 Patent and Trademark Office worksite, if—

22 “(A) the employee is employed at a Patent and
 23 Trademark Office worksite and enters into an ap-
 24 proved telework arrangement;

1 “(B) the employee requests to telework from a
2 location beyond the local commuting area of the Pat-
3 ent and Trademark Office worksite; and

4 “(C) the Patent and Trademark Office ap-
5 proves the requested arrangement for reasons of em-
6 ployee convenience instead of an agency need for the
7 employee to relocate in order to perform duties spe-
8 cific to the new location.

9 “(3)(A) The Patent and Trademark Office shall es-
10 tablish an oversight committee comprising an equal num-
11 ber of members representing management and labor, in-
12 cluding representatives from each collective bargaining
13 unit.

14 “(B) The oversight committee shall develop the oper-
15 ating procedures for the program under this subsection
16 to—

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

19 “(ii) ensure that—

20 “(I) reasonable technological or other al-
21 ternatives to employee travel are used before re-
22 quiring employee travel, including teleconfer-
23 encing, videoconferencing or internet-based
24 technologies;

1 “(II) the program is applied consistently
2 and equitably throughout the Patent and
3 Trademark Office; and

4 “(III) an optimal operating standard is de-
5 veloped and implemented for maximizing the
6 use of the telework arrangement described
7 under paragraph (2) while minimizing agency
8 travel expenses and employee travel require-
9 ments.

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

13 “(B) The Director of the Patent and Trademark Of-
14 fice shall—

15 “(i) prepare an analysis of the expected
16 costs and benefits and a set of criteria for eval-
17 uating the effectiveness of the program; and

18 “(ii) before the test program is imple-
19 mented, submit the analysis and criteria to the
20 Administrator of General Services and to the
21 appropriate committees of Congress.

22 “(C) With respect to an employee of the Patent and
23 Trademark Office who voluntarily relocates from the pre-
24 existing duty station of that employee, the operating pro-
25 cedures of the program may include a reasonable max-

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

4 “(D)(i) Not later than 3 months after completion of
5 the test program under this subsection, the Director of
6 the Patent and Trademark Office shall provide a report
7 on the results of the program to the Administrator of Gen-
8 eral Services and to the appropriate committees of Con-
9 gress.

10 “(ii) The results in the report described under para-
11 graph (1) may include—

12 “(I) the number of visits an employee makes to
13 the pre-existing duty station of that employee;

14 “(II) the travel expenses paid by the Office;

15 “(III) the travel expenses paid by the employee;

16 or

17 “(IV) any other information that the Director
18 determines may be useful to aid the Administrator
19 and Congress in understanding the test program and
20 the impact of the program.

21 “(E) In this paragraph, the term ‘appropriate com-
22 mittees of Congress’ means—

23 “(i) the Committees on Homeland Security and
24 Governmental Affairs and on the Judiciary of the
25 Senate; and

1 “(ii) the Committees on Government Oversight
2 and Reform and on the Judiciary of the House of
3 Representatives.

4 “(f)(1) Except as provided under paragraph (2), the
5 authority to conduct test programs under this section shall
6 expire 7 years after the date of the enactment of the Trav-
7 el and Transportation Reform Act of 1998.

8 “(2) The authority to conduct a test program by the
9 Patent and Trademark Office under this section shall ex-
10 pire 20 years after the date of the enactment of the Travel
11 and Transportation Reform Act of 1998.”.

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

Passed the Senate May 24, 2010.

Attest:

Secretary.

117TH CONGRESS
2^D SESSION

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AN ACT

To enhance the Federal Telework Program.