

TELEWORK IMPROVEMENTS ACT OF 2008

MAY 21, 2008.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 4106]

[Including cost estimate of the Congressional Budget Office]

The Committee on Oversight and Government Reform, to whom was referred the bill (H.R. 4106) to improve teleworking in executive agencies by developing a telework program that allows employees to telework at least 20 percent of the hours worked in every 2 administrative workweeks, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Telework Improvements Act of 2008”.

SEC. 2. TELEWORKING.

(a) IN GENERAL.—Part III of title 5, United States Code, is amended by inserting after chapter 63 the following:

“CHAPTER 65—TELEWORKING

“Sec.

“6501. Definitions.

“6502. Governmentwide teleworking requirement.

“6503. Implementation.

“6504. Telework Managing Officer.

“6505. Annual telework agency rating.

“6506. Continuity of operations.

“§ 6501. Definitions

“For purposes of this chapter—

“(1) the term ‘agency’ means an Executive agency (as defined by section 105), except as provided in section 6506(c);

“(2) the term ‘telework’ or ‘teleworking’ refers to a work arrangement under which an employee regularly performs the duties and responsibilities of such employee’s position, and other authorized activities, from home or another worksite removed from the employee’s regular place of employment;

“(3) the term ‘continuity of operations’ refers to the preparations and institutions maintained by the Government to provide for the continuation of Government operations in the event of a catastrophe; and

“(4) the term ‘catastrophe’ includes—

“(A) a national emergency declared by the President under the National Emergencies Act;

“(B) an emergency or major disaster declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act; and

“(C) a public health emergency declared by the Secretary of Health and Human Services under section 319 of the Public Health Service Act.

“§ 6502. Governmentwide teleworking requirement

“(a) TELEWORKING REQUIREMENT.—

“(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this chapter, the head of each agency shall establish a policy under which employees shall be authorized to telework, subject to paragraph (2) and subsection (b).

“(2) REGULATIONS.—The policy of each agency under this subsection—

“(A) shall be in conformance with regulations which the Administrator of General Services shall, within 120 days after the date of the enactment of this chapter and in coordination with the Office of Personnel Management, prescribe for purposes of this subsection; and

“(B) shall ensure that employees who are authorized to telework will be allowed to do so—

“(i) to the maximum extent possible; and

“(ii) without diminishing employee performance or agency operations.

“(b) TREATMENT OF CERTAIN CIRCUMSTANCES.—Nothing in subsection (a) shall be considered—

“(1) to require the head of an agency to authorize teleworking in the case of an employee whose duties and responsibilities—

“(A) require daily access to classified information;

“(B) require daily face-to-face contact with members of the public or other persons, or the use of equipment, at the employee’s regular place of employment; or

“(C) are such that their performance from a site removed from the employee’s regular place of employment is not feasible; or

“(2) to prevent the temporary denial of permission for an employee to telework if, in the judgment of the agency head—

“(A) the employee is needed to respond to an emergency;

“(B) the employee requires additional training; or

- “(C) the denial is necessary, for a specific or ascertainable period of time, to achieve goals and objectives of programs administered by the agency.
- “(c) RULE OF CONSTRUCTION.—Nothing in this chapter shall—
- “(1) be considered to require any employee to telework; or
- “(2) prevent an agency from permitting an employee to telework as part of a continuity of operations plan.

“§ 6503. Implementation

- “In order to carry out the purposes of this chapter—
- “(1) the head of each agency shall ensure that—
- “(A) appropriate training is provided to supervisors and managers and to all employees who are authorized to telework; and
- “(B) no distinction is made between teleworkers and nonteleworkers for purposes of performance appraisals;
- “(2) the General Services Administration, in coordination with the Office of Personnel Management, shall provide advice, assistance, and, to the extent necessary, training to agencies, including with respect to—
- “(A) questions of eligibility to telework, including considerations relating to employee performance; and
- “(B) making teleworking part of the agency’s goals, including those of individual supervisors and managers;
- “(3) the General Services Administration, in coordination with the Office of Management and Budget and the National Institute of Standards and Technology, shall prescribe regulations, within 120 days after the date of the enactment of this chapter, to ensure the adequacy of information and security protections for information and information systems used in, or otherwise affected by, teleworking; such regulations shall be consistent with information security policies and guidance issued by the Office of Management and Budget and the National Institute of Standards and Technology, and shall, at a minimum, include requirements necessary—
- “(A) to control access to agency information and information systems;
- “(B) to protect agency information (including personally identifiable information) and information systems;
- “(C) to limit the introduction of vulnerabilities;
- “(D) to protect information systems not under the control of the agency that are used for teleworking; and
- “(E) to safeguard the use of wireless and other telecommunications capabilities used for telework purposes; and
- “(4) the General Services Administration shall—
- “(A) maintain a central, publicly available telework website; and
- “(B) include on that website any regulations relating to teleworking and any other information the General Services Administration considers appropriate.

“§ 6504. Telework Managing Officer

- “(a) APPOINTMENT AND COMPENSATION.—
- “(1) IN GENERAL.—There may be within each agency an officer to be known as the ‘Telework Managing Officer’. The Telework Managing Officer of an agency—
- “(A) shall be appointed—
- “(i) by the Chief Human Capital Officer of such agency; or
- “(ii) if none, by the head of such agency; and
- “(B) shall be compensated at a rate not less than the minimum rate of basic pay for grade GS–15 of the General Schedule.
- “(2) WAIVER.—The Administrator of General Services may waive the minimum rate requirement under paragraph (1)(B) with respect to an agency if such agency has fewer than 100 employees (determined on a full-time equivalent basis) and the head of such agency certifies that being required to comply with paragraph (1)(B) would adversely impact agency operations.
- “(b) LIMITATIONS.—An individual may not hold the position of Telework Managing Officer as a noncareer appointee (as defined in section 3132(a)(7)), and such position may not be considered or determined to be of a confidential, policy-determining, policy-making, or policy-advocating character.
- “(c) DUTIES AND RESPONSIBILITIES.—The duties and responsibilities of the Telework Managing Officer of an agency shall be as follows:
- “(1) Serving as—
- “(A) an advisor on teleworking to the head of such agency and to the Chief Human Capital Officer of such agency (if any);
- “(B) a resource on teleworking for supervisors, managers, and employees of such agency; and

“(C) the agency’s primary point of contact on teleworking matters for employees of such agency, Congress, and other agencies.

“(2) Ensuring that the agency’s teleworking policy is communicated effectively to employees.

“(3) Ensuring that electronic or written notification is provided to each employee of specific telework programs and the agency’s teleworking policy, including authorization criteria and application procedures.

“(4) Developing and administering a tracking system for compliance with Governmentwide telework reporting requirements.

“(5) Providing to the Comptroller General and to the Administrator of General Services such information as the Comptroller General may require to prepare the annual reports under section 6505(b).

“(6) Establishing a system for receiving feedback from agency employees on the agency’s teleworking policy.

“(7) Developing and implementing a program to identify and remove barriers to teleworking and to maximize teleworking opportunities in the agency.

“(8) Ensuring that employees are notified of grievance procedures available to them (if any) with respect to any disputes that relate to teleworking.

“(9) Performing such other duties and responsibilities relating to teleworking as the head of the agency may require.

“(d) ALTERNATIVE TO TELEWORK MANAGING OFFICER.—If no Telework Managing Officer is appointed under subsection (a) with respect to an agency, the duties and responsibilities of a Telework Managing Officer shall be carried out by the Chief Human Capital Officer of, or a career employee in, such agency, as determined by the agency head.

“§ 6505. Annual telework agency rating

“(a) IN GENERAL.—The Comptroller General shall establish a system for evaluating—

“(1) the teleworking policy of each agency; and

“(2) employee participation in telework programs at each agency.

“(b) ANNUAL REPORT.—The Comptroller General shall, based on the system established under subsection (a), submit an annual report to the Committee on Oversight and Government Reform of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate. Each report under this subsection shall, with respect to the period covered by such report—

“(1) evaluate the teleworking policy of each agency;

“(2) for each agency, indicate the total number of employees in such agency and identify—

“(A) the number and percentage of employees who were eligible to telework;

“(B) the number and percentage of employees who teleworked an average of at least once a week on a regular basis, determined based on time spent actually teleworking;

“(C) the number and percentage of employees who teleworked an average of at least 20 percent of the hours that they worked in every 2 administrative workweeks, determined based on time spent actually teleworking;

“(D) the number and percentage of employees who teleworked at least once a month on a regular basis, determined based on time spent actually teleworking;

“(E) the number and percentage of employees who were not authorized to telework and the reasons why they were not so authorized;

“(F) the number and percentage of employees who were authorized to telework and then later stopped teleworking, the reasons why those employees stopped teleworking, and whether their stopping was voluntary or due to other factors, such as office coverage needs or productivity;

“(G) the extent to which barriers to maximizing teleworking opportunities have been identified and eliminated;

“(H) the impact (if any) of the agency’s teleworking policy on the recruitment and retention of employees;

“(I) the impact (if any) of the agency’s teleworking policy on the performance of agency employees; and

“(J) the level of employee satisfaction with the agency’s teleworking policy, determined based on employee feedback;

“(3) evaluate the compliance of each agency with the requirements of this chapter; and

“(4) identify best practices in agency teleworking programs.

A report under this subsection shall be submitted for the year in which the regulations under section 6502(a)(2)(A) take effect and for each of the 4 succeeding years.

Each such report shall be submitted within 6 months after the end of the year to which it relates.

“(c) **MINIMUM REQUIREMENT FOR COMPLIANCE.**—For purposes of subsection (b)(3), an agency shall not be considered to be in compliance with the requirements of this chapter unless the employees of such agency who were authorized to telework were permitted to telework for at least 20 percent of the hours that they worked in every 2 administrative workweeks (disregarding any workweeks for which such employees did not submit a request or for which they were otherwise ineligible to telework).

“§ **6506. Continuity of operations**

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

“(1) to the maximum extent practicable, teleworking is incorporated into the continuity of operations planning of such agency; and

“(2) mission critical personnel, as determined by the head of such agency, are equipped to telework in time of a catastrophe.

“(b) **COORDINATION RULE.**—The continuity of operations plan of an agency shall supersede any teleworking policy of such agency to the extent that they are inconsistent with one another.

“(c) **AGENCY DEFINED.**—For purposes of carrying out subsection (a)(2), the term ‘agency’ means an agency named in paragraph (1) or (2) of section 901(b) of title 31.”

(b) **TECHNICAL AND CONFORMING AMENDMENTS.**—(1) The analysis for part III of title 5, United States Code, is amended by inserting after the item relating to chapter 63 the following:

“**65. Teleworking** **6501**”.

(2) Section 622 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2005, as contained in the Consolidated Appropriations Act, 2005 (5 U.S.C. 6120 note) is amended by striking “designate a ‘Telework Coordinator’ to be” and inserting “appoint or designate a Telework Managing Officer to be”.

SEC. 3. CHIEF HUMAN CAPITAL OFFICERS COUNCIL.

(a) **IN GENERAL.**—Chapter 14 of title 5, United States Code, is amended by adding at the end the following:

“**SUBCHAPTER II—CHIEF HUMAN CAPITAL OFFICERS COUNCIL**

“§ **1421. Chief Human Capital Officers Council**

“(a) **ESTABLISHMENT.**—There is established a Chief Human Capital Officers Council, consisting of—

“(1) the Director of the Office of Personnel Management, who shall act as chairperson of the Council;

“(2) the Deputy Director for Management of the Office of Management and Budget, who shall act as vice chairperson of the Council;

“(3) the Administrator of General Services; and

“(4) the Chief Human Capital Officers of Executive departments and any other members who are designated by the Director of the Office of Personnel Management.

“(b) **FUNCTIONS.**—The Chief Human Capital Officers Council shall meet periodically to advise and coordinate the activities of the agencies of its members on such matters as modernization of human resources systems, improved quality of human resources information, teleworking (as defined by section 6501), and legislation affecting human resources operations and organizations.

“(c) **EMPLOYEE LABOR ORGANIZATIONS AT MEETINGS.**—The Chief Human Capital Officers Council shall ensure that representatives of Federal employee labor organizations are present at a minimum of 1 meeting of the Council each year. Such representatives shall not be members of the Council.

“(d) **ANNUAL REPORT.**—Each year, the Chief Human Capital Officers Council shall submit a report to Congress on the activities of the Council.”

(b) **TECHNICAL AND CONFORMING AMENDMENTS.**—(1) Chapter 14 of title 5, United States Code, is amended by striking the matter before section 1401 and inserting the following:

“**CHAPTER 14—CHIEF HUMAN CAPITAL OFFICERS**

“**SUBCHAPTER I—AGENCY CHIEF HUMAN CAPITAL OFFICERS**

“Sec.

“1401. Establishment of agency Chief Human Capital Officers.

“1402. Authority and functions of agency Chief Human Capital Officers.

“1421. Chief Human Capital Officers Council.

“SUBCHAPTER I—AGENCY CHIEF HUMAN CAPITAL OFFICERS”.

(2) The analysis for part II of title 5, United States Code, is amended by striking the item relating to chapter 14 and inserting the following:

“14. Chief Human Capital Officers 1401”.

(3) Section 1303 of Public Law 107–296 (5 U.S.C. 1401 note) is repealed.

SEC. 4. REPORTING REQUIREMENT.

(a) INCORPORATION OF TELEWORKING INTO CONTINUITY OF OPERATIONS PLANNING.—Within 12 months after the effective date of the regulations under section 6502(a)(2)(A) of title 5, United States Code (as amended by section 2), the General Services Administration, in coordination with the Office of Personnel Management, the Federal Emergency Management Agency, and the Chief Human Capital Officers Council, shall report to the appropriate committees of Congress on the incorporation of teleworking into agencies’ continuity of operations planning, including—

- (1) the extent to which such incorporation has occurred within each of the respective agencies;
- (2) the extent to which each agency has conducted continuity of operations tests and exercises incorporating teleworking for essential and non-essential personnel;
- (3) the extent to which agencies have used teleworking in response to emergencies; and
- (4) any recommendations the General Services Administration considers appropriate.

(b) DEFINITIONS.—For purposes of this section—

- (1) the term “appropriate committees of Congress” means the Committee on Oversight and Government Reform of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate;
- (2) the terms “teleworking” and “continuity of operations” have the meanings given those terms by section 6501 of title 5, United States Code (as amended by section 2); and
- (3) the term “agency” means an Executive agency (as defined by section 105 of title 5, United States Code), excluding any having fewer than 100 employees (as defined by section 2105 of such title), determined on a full-time equivalent basis.

PURPOSE AND SUMMARY

H.R. 4106, the Telework Improvements Act of 2008, was introduced on November 7, 2007, by Reps. Danny K. Davis, John P. Sarbanes, Henry A. Waxman, Tom Davis, Frank R. Wolf, Elijah E. Cummings, and Eleanor Holmes Norton. The bill requires the head of each agency to establish a policy that allows authorized employees to telework, requires the General Services Administration (GSA) to issue guidance on issues related to telework, creates the position of Telework Managing Officer, requires the Government Accountability Office (GAO) to evaluate and report on agency telework programs, and requires agencies to incorporate telework into their continuity of operations planning.

BACKGROUND AND NEED FOR LEGISLATION

Every executive agency is required to have policies in place that allow eligible employees to telework. Telework provides a number of benefits including reduced energy consumption and traffic congestion, competitive hiring and retention, cost savings, and emergency preparedness. Despite these and other benefits, many agencies continue to underutilize telework.

Public Law 106–346 mandated that each executive agency “establish a policy under which eligible employees of the agency may participate in telecommuting to the maximum extent possible with-

out diminished employee performance.” According to a status report released by OPM in 2007, however, only 6% of federal employees participated in telework programs in 2006.¹

On May 7, 2007, Representatives Danny Davis, Marchant, Waxman, and Tom Davis sent a letter to 25 federal departments and agencies requesting information on the telework programs of those agencies. The information collected from the surveyed agencies showed that there is not a consistent definition of telework across agencies. The way agencies measure and track telework also varies. Some agencies, such as the Department of Energy, said they track how many employees are teleworking through time and attendance systems.² Other agencies, such as the Department of Housing and Urban Development, do not track actual telework and instead calculate telework based on existing telework agreements between supervisors and employees.³

H.R. 4106 defines telework and requires GAO to evaluate agency telework programs and to track data such as the number of employees actually teleworking and the number of employees teleworking for certain minimum amounts of time. The bill sets a consistent standard for telework by providing that an agency will only be considered to be in compliance with the bill’s requirements if employees who are authorized to telework are permitted to telework at least 20% of the hours worked in every two workweeks.

One of the most frequently cited barriers to telework is resistance from management. H.R. 4106 requires agencies to provide telework training for managers, supervisors, and teleworking employees. The bill also requires GAO to evaluate the extent to which barriers to maximizing teleworking opportunities have been identified and eliminated.

An important consideration for agency telework programs is ensuring the security of government information. In February 2008, before the Subcommittee on Information Policy, Census, and National Archives, GAO testified that agencies have not fully implemented agencywide information security programs, putting federal information at increased risk. The National Institute of Standards and Technology (NIST) has identified ways in which agencies and teleworking employees can protect information and limit the introduction of vulnerabilities, including those resulting from inadequate maintenance of antivirus software and operation system patches, improperly configured firewalls, and unrestricted acceptance or use of spam, popup windows, file sharing, and peer to peer software (P2P). A 2007 Committee investigation revealed that sensitive personal and government documents were readily available through the P2P file sharing networks. On July 24, 2007, the Committee held a hearing on inadvertent file sharing over P2P networks and the impacts of such sharing on consumers, corporations and government entities. At the hearing, government and independent witnesses testified that sensitive information is continuously being released across P2P networks. H.R. 4106 requires GSA, in coordination with the Office of Management and Budget and

¹ U.S. Office of Personnel Management, Status of Telework in the Federal Government (Dec. 2007).

² Letter from Claudia Cross, Deputy Chief Human Capital Officer, Director, Office of Human Capital Management, Department of Energy (July 12, 2007).

³ Letter from Mark A. Studdert, General Deputy Assistant Secretary for Congressional and Intergovernmental Relations, Department of Housing and Urban Development (June 1, 2007).

NIST, to issue regulations to ensure that the information and security protections for teleworking are adequate.

In recent years, telework also has increasingly been viewed as an important tool for ensuring continuity of essential government services in emergencies. In response to the May 2007 letter from the Committee, some agencies reported that they have performed demonstration exercises using telework as a component of continuity of operations planning, while many others have not. A number of agencies have used telework to respond to real emergencies such as Hurricanes Katrina and Rita. H.R. 4106 requires larger agencies, to the extent they are able, to incorporate telework into their continuity of operations planning. The bill also requires GSA, in coordination with other relevant agencies, to report to Congress on the extent to which agencies have incorporated telework into their continuity of operations planning and the extent to which agencies have conducted continuity of operations tests using telework.

LEGISLATIVE HISTORY

H.R. 4106, the Telework Improvements Act of 2008, was introduced by Rep. Danny K. Davis, John P. Sarbanes, Henry A. Waxman, Tom Davis, Frank R. Wolf, Elijah E. Cummings, and Eleanor Holmes Norton on November 7, 2007, and referred to the Committee on Oversight and Government Reform.

The Subcommittee on Federal Workforce, Post Office, and the District of Columbia held a hearing on telework issues on November 6, 2007. The Subcommittee held a business meeting to consider H.R. 4106 on February 28, 2008, and forwarded the bill, as amended, to the full Committee by a voice vote.

The full Committee considered H.R. 4106 on March 13, 2008, and ordered the bill to be reported, as amended, by a voice vote.

SECTION-BY-SECTION

Section 1: Short title

This section provides that the short title of the bill is the “Telework Improvements Act of 2008.”

Section 2: Teleworking

Subsection (a) creates a new chapter 65 in title 5 that includes 6 new sections, 6501–6506.

The new section 6501 includes the following definitions:

The term “agency” means an executive agency, except as provided in section 6506(c).

The term “telework” or “teleworking” means a work arrangement under which an employee regularly performs the duties and responsibilities of the employee’s position, and other authorized activities, from home or another worksite removed from the employee’s regular place of employment. Under this section, teleworking includes any activities, including training and union activities, that an employee would normally be authorized to do during work hours at his or her regular place of employment.

The term “continuity of operations” refers to the preparations and institutions maintained by the government to provide for the

continuation of government operations in the event of a catastrophe.

The term “catastrophe” includes an emergency declared by the president under the National Emergencies Act or the Stafford Disaster Relief and Emergency Assistance Act or a public health emergency declared by the secretary of the Department of Health and Human Services.

The new section 6502 requires the head of each agency to establish a policy that authorizes employees to telework.

Section 6502(a) requires agencies to establish such policies within six months of enactment. Section 6502(a) also requires GSA, in coordination with OPM, to issue regulations on telework within four months of enactment and requires agency telework policies to be consistent with those regulations. Agency policies must ensure that authorized employees are allowed to telework to the maximum extent possible without diminishing employee performance or agency operations.

Under section 6502(b), an agency may deny authorization to telework to any employee whose duties require the employee to be at his or her regular place of employment every day. Such duties include daily access to classified information, daily face-to-face contact with members of the public, and the use of on-site equipment. This language does not preclude an agency from allowing an employee to telework if the employee’s duties fall into the specified categories. This decision is left to the discretion of the agency.

An agency may also temporarily deny an employee authorization to telework in certain circumstances: if the agency head determines the employee is needed to respond to an emergency; if the employee requires additional training; or if the denial is necessary, for a specific period of time, to achieve program goals. Section 6502(b)(2) is intended to allow an agency to temporarily deny telework for a very specific time period. For example, the IRS could temporarily deny telework to certain employees if those employees are needed at their regular place of employment during tax season. This paragraph is not intended to be used by an agency to indefinitely deny telework to an employee.

Section 6502(c) clarifies that this bill is not intended to require any employee to telework or to prevent an agency from permitting any employee from teleworking as part of a continuity of operations plan, even if the employee is not usually authorized to telework.

Both OPM and GSA have played roles in implementing federal telework policies. The Committee believes that the current framework is disjointed and is not effective. The Committee believes one agency should have the primary responsibility of ensuring that the requirements of this bill are implemented. The Committee believes GSA’s role in implementing governmentwide management tools and GSA’s role in information technology make GSA the logical choice to coordinate the issuance of regulations and other information for agencies on telework. However, the bill specifies in several places, including this section, that GSA must coordinate its efforts with OPM.

The new section 6503 requires agencies to provide training to supervisors, managers, and employees who are authorized to telework, and provides that no distinction may be made between

teleworkers and non-teleworkers for purposes of performance appraisals. Employees should be able to take advantage of agency telework programs without any negative impact on their job evaluations.

This section requires GSA, in coordination with OPM, to provide advice, assistance, and, where necessary, training, to agencies on questions of telework eligibility and making telework part of the agency's goals. GSA, in coordination with the Office of Management and Budget and NIST, also must issue regulations within four months of enactment to ensure the adequacy of information and security protections for telework. This section requires GSA to maintain a central, publicly available website on telework that includes information on any regulations related to telework. The intent is for this website to provide a central source of information for management, federal employees, and the public on requirements and programs related to telework in the federal government.

The new section 6504 creates the role of Telework Managing Officer.

Section 6504(a) provides that each agency may appoint a Telework Managing Officer (TMO). The TMO must be appointed by the Chief Human Capital Officer of an agency or, if the agency does not have a Chief Human Capital Officer, by the head of the agency. If an agency appoints a TMO, the TMO must be paid, at a minimum, at the GS-15 rate of the General Schedule. This section provides that the Administrator of GSA may waive the pay rate requirement for an agency with fewer than 100 employees if the agency certifies that being required to pay a TMO at the GS-15 level would adversely impact agency operations.

Section 6504(b) provides that the position of Telework Managing Officer must be a career position and not a political position.

Section 6504(c) describes the duties and responsibilities of the Telework Managing Officer. Some of these responsibilities include: serving as an advisor on telework to agency leadership and as a resource for managers and employees; ensuring that employees know about the agency's telework policy; developing a tracking system that measures telework at the agency to allow the agency to comply with telework reporting requirements; and ensuring that employees are notified of any grievance process available if they have a dispute related to telework. This is not intended to create, or require agencies to create, any new grievance procedures. This requires the TMO to ensure that employees know how they should deal with any dispute that arises related to teleworking authorizations or agreements through the agency's existing grievance procedures.

Section 6504(d) provides that if a Telework Managing Officer is not appointed by an agency, the head of the agency must designate either the Chief Human Capital Officer or a career employee to carry out the duties described for Telework Managing Officers.

The new section 6505 requires GAO to evaluate and report on agency telework programs.

Section 6505(a) requires GAO to establish a system for evaluating each agency's teleworking policy and the level of employee participation in telework programs at each agency.

Section 6505(b) requires GAO to submit an annual report covering each of the five years following enactment to the House Com-

committee on Oversight and Government Reform and the Senate Committee on Homeland Security and Governmental Affairs. GAO's reports must evaluate the teleworking policy of each agency and provide data for the preceding year on agency telework programs. GAO must provide data such as the number and percentage of employees who were eligible to telework, the number and percentage of employees who teleworked an average of at least 20% of the hours they worked in every two workweeks, and the number and percentage of employees who were not authorized to telework. GAO must also evaluate the compliance of each agency with the telework requirements being added by the new chapter 65 and identify best practices in agency telework programs.

Section 6505(c) provides that, for purposes of GAO's evaluation, an agency will only be considered to be in compliance with the new chapter 65 if the employees at the agency who were authorized to telework were permitted to telework for at least 20% of the hours that they worked in every two workweeks, not counting any workweeks in which an employee did not request to telework or was ineligible to telework.

The new section 6506 describes the responsibilities of agencies with regard to including telework as part of continuity of operations planning.

Section 6506(a) requires the head of each agency (as defined in subsection (c)) to ensure that, to the maximum extent practicable, teleworking is incorporated into each agency's continuity of operations planning and that mission critical personnel are equipped to telework in a catastrophe.

Section 6506(b) provides that an agency's continuity of operations plan supersedes any inconsistencies in the agency's teleworking policies. In the event of a catastrophe, any provisions related to telework in the agency's continuity of operations plan will override any conflicting provisions in the agency's telework policies as long as the agency is operating pursuant to the continuity of operations plan.

Section 6506(c) provides that the agencies that must comply with this section are the agencies that are listed in the Chief Financial Officers Act, specifically, 31 U.S.C. § 901(b).

Section 2(b) provides technical and conforming amendments including a clarification that the role of the Telework Managing Officer will replace the existing position of Telework Coordinator that agencies were required to designate pursuant to previous laws.

Section 3: Chief Human Capital Officers Council

Subsection (a) codifies the establishment of the Chief Human Capital Officers Council which was created as part of the Homeland Security Act of 2002, P.L. 107-296, and adds the Administrator of GSA as a member of the Council. The Council is codified through the creation of a new subchapter in chapter 14 of title 5. This subsection also adds teleworking to the matters to be considered by the Council. The Administrator of GSA is added to the Council in order to consider matters related to teleworking. The addition of the Administrator is not intended to alter the leadership structure of the Council.

Subsection (b) includes technical and conforming amendments related to the creation of the new subchapter.

Section 4: Reporting requirement

Subsection (a) requires GSA, in coordination with OPM, FEMA, and the Chief Human Capital Officers Council, to report to Congress on: the extent to which agencies have incorporated telework into their continuity of operations planning; the extent each agency has conducted operations tests and exercises using telework for essential and non-essential agency personnel; the extent to which agencies have used teleworking in response to emergencies; and any recommendations from GSA. GSA must issue this report within one year from the effective date of the regulations it must issue under the new section 6502.

Subsection (b) provides that the report required under subsection (a) must be provided to the House Committee on Oversight and Government Reform and the Senate Committee on Homeland Security and Governmental Affairs. This subsection provides that, for purposes of this section, the terms “teleworking” and “continuity of operations” have the same meaning as in the new section 6501 created by section 2(a) of the bill. This subsection also provides that, for purposes of this section, the term “agency” means an executive agency with 100 or more full-time employees.

EXPLANATION OF AMENDMENTS

At the Subcommittee business meeting on February 28, 2008, Rep. Danny Davis offered an amendment in the nature of a substitute, which passed by voice vote, to allow an agency to temporarily restrict an employee from teleworking in the event of an emergency; require GSA to maintain a central telework website; allow the Administrator of GSA, for agencies with fewer than 100 employees, to waive the bill’s requirement that a TMO be compensated at the GS–15 rate; clarify that the position of TMO must be a career employee; and ensure that the definition of telework covers all authorized activities that can be performed from an alternate worksite.

At the full Committee business meeting on March 13, 2008, Rep. Waxman offered an amendment in the nature of a substitute, which passed by voice vote, to codify telework in title 5; require that essential personnel be equipped to telework during a catastrophe; add telework as an issue to be coordinated by the Chief Human Capital Officers Council; require GAO to report on agency compliance and clarify that, for purposes of GAO’s evaluation, an agency will only be considered to be in compliance with the new chapter 65 if the employees at the agency who were authorized to telework were permitted to telework for at least 20% of the hours that they worked in every two workweeks; and strengthen the information security protections of the bill. Rep. Tom Davis offered an amendment, which passed by voice vote, to provide agencies with the discretion to appoint or designate a TMO or, alternatively, to require the agency’s Chief Human Capital Officer or a career employee to carry out those duties.

COMMITTEE CONSIDERATION

On Thursday, March 13, 2008, the Committee met in open session and ordered H.R. 4106 to be reported, as amended, to the House by a voice vote.

ROLLCALL VOTES

No rollcall votes were held.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch where the bill relates to terms and conditions of employment or access to public services and accommodations. H.R. 4106 relates to executive branch telework programs and therefore does not relate to employment or access to public services and accommodations in the legislative branch.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report including the need to: improve agency telework programs; provide a consistent definition of telework; and establish consistent and accurate measurements of telework in the federal government.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee's performance goals and objectives are reflected in the descriptive portions of this report, including improving agency telework policies in order to allow more federal employees to telework.

CONSTITUTIONAL AUTHORITY STATEMENT

Under clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee must include a statement citing the specific powers granted to Congress to enact the law proposed by H.R. 4106. Article I, Section 8, Clause 18 of the Constitution of the United States grants the Congress the power to enact this law.

FEDERAL ADVISORY COMMITTEE ACT

The Committee finds that the legislation does not establish or authorize the establishment of an advisory committee within the definition of 5 U.S.C. App., Section 5(b).

UNFUNDED MANDATES STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandates Reform Act, P.L. 104–4) requires a statement on whether the provisions of the report include unfunded mandates. In compliance with this requirement the Committee has received a letter from the Congressional Budget Office included herein.

EARMARK IDENTIFICATION

H.R. 4106 does not include any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI.

COMMITTEE ESTIMATE

Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs that would be incurred in carrying out H.R. 4106. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act.

BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 4106 from the Director of the Congressional Budget Office:

APRIL 14, 2008.

Hon. HENRY A. WAXMAN,
*Chairman, Committee on Oversight and Government Reform,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4106, the Telework Improvements Act of 2008.

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

Sincerely,

PETER R. ORSZAG.

Enclosure.

H.R. 4106—Telework Improvements Act of 2008

H.R. 4106 would require executive agencies of the federal government to establish policies to determine which employees are eligible to participate in certain telework programs. (Telework programs enable employees to work part time from places other than their regular place of employment.) The legislation also would require agencies to incorporate telework options into their emergency operation plans (known as continuity of operation plans). Finally, H.R. 4106 would require the Government Accountability Office to report annually on agencies' telework policies, participation, and practices.

Assuming appropriation of the necessary amounts, CBO estimates that implementing H.R. 4106 would increase administrative costs across affected agencies by \$5 million in 2008 and much smaller amounts in subsequent years. Those costs would result

from requirements that agencies notify employees of their eligibility to participate in telework programs and report on their telework programs. H.R. 4106 also could affect direct spending, but CBO estimates that any amounts would not be significant in any year. Enacting the bill would not affect revenues.

Under current law, executive branch agencies are required to establish policies for employees to participate in telework programs to the maximum extent possible without diminishing employees' performance. The General Services Administration and the Office of Personnel Management provide guidance and resources to federal agencies to support telework policies governmentwide. This bill would require agencies to establish and implement policies to enable eligible employees to participate in telework programs, adding to annual administrative costs.

For most agencies, additional spending would be subject to the availability of appropriated funds; however, the bill could affect direct spending by agencies not funded through annual appropriations, such as the Tennessee Valley Authority and the Bonneville Power Administration. CBO estimates, however, that any increase in spending for telework programs by those agencies would not be significant.

H.R. 4106 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

On January 28, 2007, CBO provided a cost estimate for S. 1000, the Telework Enhancement Act of 2007, as ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on November 14, 2007. The bills are similar in that they both deal with telework, but S. 1000 would apply to legislative as well as executive agencies. CBO estimates that any additional costs to legislative agencies under S. 1000 would be negligible and our cost estimates for the bills are similar.

The CBO staff contact for this estimate is Matthew Pickford. This estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

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

TITLE 5, UNITED STATES CODE

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PART II—CIVIL SERVICE FUNCTIONS AND RESPONSIBILITIES

Chapter	11. Office of Personnel Management	Sec. 1101
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[14. Agency Chief Human Capital Officers	1401]
14. Chief Human Capital Officers	1401
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[CHAPTER 14—AGENCY CHIEF HUMAN CAPITAL OFFICERS

- [Sec. 1401. Establishment of agency Chief Human Capital Officers.
- [1402. Authority and functions of agency Chief Human Capital Officers.]

CHAPTER 14—CHIEF HUMAN CAPITAL OFFICERS

SUBCHAPTER I—AGENCY CHIEF HUMAN CAPITAL OFFICERS

- Sec. 1401. Establishment of agency Chief Human Capital Officers.
- 1402. Authority and functions of agency Chief Human Capital Officers.

SUBCHAPTER II—CHIEF HUMAN CAPITAL OFFICERS COUNCIL

- 1421. Chief Human Capital Officers Council.

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SUBCHAPTER II—CHIEF HUMAN CAPITAL OFFICERS COUNCIL

§ 1421. Chief Human Capital Officers Council

(a) *ESTABLISHMENT.*—There is established a Chief Human Capital Officers Council, consisting of—

- (1) the Director of the Office of Personnel Management, who shall act as chairperson of the Council;
- (2) the Deputy Director for Management of the Office of Management and Budget, who shall act as vice chairperson of the Council;
- (3) the Administrator of General Services; and
- (4) the Chief Human Capital Officers of Executive departments and any other members who are designated by the Director of the Office of Personnel Management.

(b) *FUNCTIONS.*—The Chief Human Capital Officers Council shall meet periodically to advise and coordinate the activities of the agencies of its members on such matters as modernization of human resources systems, improved quality of human resources information, teleworking (as defined by section 6501), and legislation affecting human resources operations and organizations.

(c) *EMPLOYEE LABOR ORGANIZATIONS AT MEETINGS.*—The Chief Human Capital Officers Council shall ensure that representatives of Federal employee labor organizations are present at a minimum of 1 meeting of the Council each year. Such representatives shall not be members of the Council.

(d) *ANNUAL REPORT.*—Each year, the Chief Human Capital Officers Council shall submit a report to Congress on the activities of the Council.

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PART III—EMPLOYEES

Chap.

Sec.

Subpart A—General Provisions

21. Definitions **2101**
 * * * * *

Subpart E—Attendance and Leave

61. Hours of Work **6101**
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65. Teleworking **6501**
 * * * * *

SUBPART E—ATTENDANCE AND LEAVE

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CHAPTER 65—TELEWORKING

- Sec.
 6501. *Definitions.*
 6502. *Governmentwide teleworking requirement.*
 6503. *Implementation.*
 6504. *Telework Managing Officer.*
 6505. *Annual telework agency rating.*
 6506. *Continuity of operations.*

§ 6501. Definitions

For purposes of this chapter—

- (1) *the term “agency” means an Executive agency (as defined by section 105), except as provided in section 6506(c);*
- (2) *the term “telework” or “teleworking” refers to a work arrangement under which an employee regularly performs the duties and responsibilities of such employee’s position, and other authorized activities, from home or another worksite removed from the employee’s regular place of employment;*
- (3) *the term “continuity of operations” refers to the preparations and institutions maintained by the Government to provide for the continuation of Government operations in the event of a catastrophe; and*
- (4) *the term “catastrophe” includes—*
 - (A) *a national emergency declared by the President under the National Emergencies Act;*
 - (B) *an emergency or major disaster declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act; and*
 - (C) *a public health emergency declared by the Secretary of Health and Human Services under section 319 of the Public Health Service Act.*

§ 6502. Governmentwide teleworking requirement

(a) **TELEWORKING REQUIREMENT.**—

- (1) **IN GENERAL.**—*Not later than 180 days after the date of the enactment of this chapter, the head of each agency shall establish a policy under which employees shall be authorized to telework, subject to paragraph (2) and subsection (b).*
- (2) **REGULATIONS.**—*The policy of each agency under this subsection—*
 - (A) *shall be in conformance with regulations which the Administrator of General Services shall, within 120 days*

after the date of the enactment of this chapter and in coordination with the Office of Personnel Management, prescribe for purposes of this subsection; and

(B) shall ensure that employees who are authorized to telework will be allowed to do so—

(i) to the maximum extent possible; and

(ii) without diminishing employee performance or agency operations.

(b) **TREATMENT OF CERTAIN CIRCUMSTANCES.**—Nothing in subsection (a) shall be considered—

(1) to require the head of an agency to authorize teleworking in the case of an employee whose duties and responsibilities—

(A) require daily access to classified information;

(B) require daily face-to-face contact with members of the public or other persons, or the use of equipment, at the employee's regular place of employment; or

(C) are such that their performance from a site removed from the employee's regular place of employment is not feasible; or

(2) to prevent the temporary denial of permission for an employee to telework if, in the judgment of the agency head—

(A) the employee is needed to respond to an emergency;

(B) the employee requires additional training; or

(C) the denial is necessary, for a specific or ascertainable period of time, to achieve goals and objectives of programs administered by the agency.

(c) **RULE OF CONSTRUCTION.**—Nothing in this chapter shall—

(1) be considered to require any employee to telework; or

(2) prevent an agency from permitting an employee to telework as part of a continuity of operations plan.

§6503. Implementation

In order to carry out the purposes of this chapter—

(1) the head of each agency shall ensure that—

(A) appropriate training is provided to supervisors and managers and to all employees who are authorized to telework; and

(B) no distinction is made between teleworkers and nonteleworkers for purposes of performance appraisals;

(2) the General Services Administration, in coordination with the Office of Personnel Management, shall provide advice, assistance, and, to the extent necessary, training to agencies, including with respect to—

(A) questions of eligibility to telework, including considerations relating to employee performance; and

(B) making teleworking part of the agency's goals, including those of individual supervisors and managers;

(3) the General Services Administration, in coordination with the Office of Management and Budget and the National Institute of Standards and Technology, shall prescribe regulations, within 120 days after the date of the enactment of this chapter, to ensure the adequacy of information and security protections for information and information systems used in, or otherwise affected by, teleworking; such regulations shall be consistent with information security policies and guidance issued by the

Office of Management and Budget and the National Institute of Standards and Technology, and shall, at a minimum, include requirements necessary—

- (A) to control access to agency information and information systems;*
 - (B) to protect agency information (including personally identifiable information) and information systems;*
 - (C) to limit the introduction of vulnerabilities;*
 - (D) to protect information systems not under the control of the agency that are used for teleworking; and*
 - (E) to safeguard the use of wireless and other telecommunications capabilities used for telework purposes; and*
- (4) the General Services Administration shall—*
- (A) maintain a central, publicly available telework website; and*
 - (B) include on that website any regulations relating to teleworking and any other information the General Services Administration considers appropriate.*

§ 6504. Telework Managing Officer

(a) APPOINTMENT AND COMPENSATION.—

(1) IN GENERAL.—There may be within each agency an officer to be known as the “Telework Managing Officer”. The Telework Managing Officer of an agency—

(A) shall be appointed—

- (i) by the Chief Human Capital Officer of such agency; or*
- (ii) if none, by the head of such agency; and*

(B) shall be compensated at a rate not less than the minimum rate of basic pay for grade GS–15 of the General Schedule.

(2) WAIVER.—The Administrator of General Services may waive the minimum rate requirement under paragraph (1)(B) with respect to an agency if such agency has fewer than 100 employees (determined on a full-time equivalent basis) and the head of such agency certifies that being required to comply with paragraph (1)(B) would adversely impact agency operations.

(b) LIMITATIONS.—An individual may not hold the position of Telework Managing Officer as a noncareer appointee (as defined in section 3132(a)(7)), and such position may not be considered or determined to be of a confidential, policy-determining, policy-making, or policy-advocating character.

(c) DUTIES AND RESPONSIBILITIES.—The duties and responsibilities of the Telework Managing Officer of an agency shall be as follows:

(1) Serving as—

(A) an advisor on teleworking to the head of such agency and to the Chief Human Capital Officer of such agency (if any);

(B) a resource on teleworking for supervisors, managers, and employees of such agency; and

(C) the agency’s primary point of contact on teleworking matters for employees of such agency, Congress, and other agencies.

(2) *Ensuring that the agency's teleworking policy is communicated effectively to employees.*

(3) *Ensuring that electronic or written notification is provided to each employee of specific telework programs and the agency's teleworking policy, including authorization criteria and application procedures.*

(4) *Developing and administering a tracking system for compliance with Governmentwide telework reporting requirements.*

(5) *Providing to the Comptroller General and to the Administrator of General Services such information as the Comptroller General may require to prepare the annual reports under section 6505(b).*

(6) *Establishing a system for receiving feedback from agency employees on the agency's teleworking policy.*

(7) *Developing and implementing a program to identify and remove barriers to teleworking and to maximize teleworking opportunities in the agency.*

(8) *Ensuring that employees are notified of grievance procedures available to them (if any) with respect to any disputes that relate to teleworking.*

(9) *Performing such other duties and responsibilities relating to teleworking as the head of the agency may require.*

(d) **ALTERNATIVE TO TELEWORK MANAGING OFFICER.**—*If no Telework Managing Officer is appointed under subsection (a) with respect to an agency, the duties and responsibilities of a Telework Managing Officer shall be carried out by the Chief Human Capital Officer of, or a career employee in, such agency, as determined by the agency head.*

§ 6505. Annual telework agency rating

(a) **IN GENERAL.**—*The Comptroller General shall establish a system for evaluating—*

(1) *the teleworking policy of each agency; and*

(2) *employee participation in telework programs at each agency.*

(b) **ANNUAL REPORT.**—*The Comptroller General shall, based on the system established under subsection (a), submit an annual report to the Committee on Oversight and Government Reform of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate. Each report under this subsection shall, with respect to the period covered by such report—*

(1) *evaluate the teleworking policy of each agency;*

(2) *for each agency, indicate the total number of employees in such agency and identify—*

(A) *the number and percentage of employees who were eligible to telework;*

(B) *the number and percentage of employees who teleworked an average of at least once a week on a regular basis, determined based on time spent actually teleworking;*

(C) *the number and percentage of employees who teleworked an average of at least 20 percent of the hours that they worked in every 2 administrative workweeks, determined based on time spent actually teleworking;*

(D) the number and percentage of employees who teleworked at least once a month on a regular basis, determined based on time spent actually teleworking;

(E) the number and percentage of employees who were not authorized to telework and the reasons why they were not so authorized;

(F) the number and percentage of employees who were authorized to telework and then later stopped teleworking, the reasons why those employees stopped teleworking, and whether their stopping was voluntary or due to other factors, such as office coverage needs or productivity;

(G) the extent to which barriers to maximizing teleworking opportunities have been identified and eliminated;

(H) the impact (if any) of the agency's teleworking policy on the recruitment and retention of employees;

(I) the impact (if any) of the agency's teleworking policy on the performance of agency employees; and

(J) the level of employee satisfaction with the agency's teleworking policy, determined based on employee feedback;

(3) evaluate the compliance of each agency with the requirements of this chapter; and

(4) identify best practices in agency teleworking programs.

A report under this subsection shall be submitted for the year in which the regulations under section 6502(a)(2)(A) take effect and for each of the 4 succeeding years. Each such report shall be submitted within 6 months after the end of the year to which it relates.

(c) **MINIMUM REQUIREMENT FOR COMPLIANCE.**—For purposes of subsection (b)(3), an agency shall not be considered to be in compliance with the requirements of this chapter unless the employees of such agency who were authorized to telework were permitted to telework for at least 20 percent of the hours that they worked in every 2 administrative workweeks (disregarding any workweeks for which such employees did not submit a request or for which they were otherwise ineligible to telework).

§ 6506. Continuity of operations

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

(1) to the maximum extent practicable, teleworking is incorporated into the continuity of operations planning of such agency; and

(2) mission critical personnel, as determined by the head of such agency, are equipped to telework in time of a catastrophe.

(b) **COORDINATION RULE.**—The continuity of operations plan of an agency shall supersede any teleworking policy of such agency to the extent that they are inconsistent with one another.

(c) **AGENCY DEFINED.**—For purposes of carrying out subsection (a)(2), the term “agency” means an agency named in paragraph (1) or (2) of section 901(b) of title 31.

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**SECTION 622 OF THE DEPARTMENTS OF COMMERCE,
JUSTICE, AND STATE, THE JUDICIARY, AND RELATED
AGENCIES APPROPRIATIONS ACT, 2005**

SEC. 622. THE DEPARTMENTS OF COMMERCE, JUSTICE, STATE, THE JUDICIARY, THE SECURITIES AND EXCHANGE COMMISSION AND THE SMALL BUSINESS ADMINISTRATION SHALL, NOT LATER THAN TWO MONTHS AFTER THE DATE OF THE ENACTMENT OF THIS ACT, CERTIFY THAT TELECOMMUTING OPPORTUNITIES ARE MADE AVAILABLE TO 100 PERCENT OF THE ELIGIBLE WORKFORCE: *Provided*, That, of the total amounts appropriated to the Departments of Commerce, Justice, State, the Judiciary, the Securities and Exchange Commission and the Small Business Administration, \$5,000,000 shall be available only upon such certification: *Provided further*, That each Department or agency shall provide quarterly reports to the Committees on Appropriations on the status of telecommuting programs, including the number of Federal employees eligible for, and participating in, such programs: *Provided further*, That each Department or agency shall [designate a “Telework Coordinator” to be] *appoint or designate a Telework Managing Officer to be* responsible for overseeing the implementation and operations of telecommuting programs, and serve as a point of contact on such programs for the Committees on Appropriations.

SECTION 1303 OF PUBLIC LAW 107-296

[SEC. 1303. CHIEF HUMAN CAPITAL OFFICERS COUNCIL.

[(a) ESTABLISHMENT.—There is established a Chief Human Capital Officers Council, consisting of—

[(1) the Director of the Office of Personnel Management, who shall act as chairperson of the Council;

[(2) the Deputy Director for Management of the Office of Management and Budget, who shall act as vice chairperson of the Council; and

[(3) the Chief Human Capital Officers of Executive departments and any other members who are designated by the Director of the Office of Personnel Management.

[(b) FUNCTIONS.—The Chief Human Capital Officers Council shall meet periodically to advise and coordinate the activities of the agencies of its members on such matters as modernization of human resources systems, improved quality of human resources information, and legislation affecting human resources operations and organizations.

[(c) EMPLOYEE LABOR ORGANIZATIONS AT MEETINGS.—The Chief Human Capital Officers Council shall ensure that representatives of Federal employee labor organizations are present at a minimum of 1 meeting of the Council each year. Such representatives shall not be members of the Council.

[(d) ANNUAL REPORT.—Each year the Chief Human Capital Officers Council shall submit a report to Congress on the activities of the Council.]

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ADDITIONAL VIEWS OF RANKING MEMBER TOM DAVIS

Far too many federal agencies are missing the opportunity to promote teleworking among their employees. Ninety percent of the employees eligible to telework do not do so at this time. The Telework Improvements Act of 2008 would require federal agencies to put in place telework policies and to utilize telework as much as possible.

With the vast majority of the federal government's workforce located here in the National Capital Region, utilizing telework will have an immediate and dramatic impact on the traffic congestion in the region. It will also increase worker productivity as our federal workforce spends less time commuting to and from work every day. As an added benefit, keeping people off the roads will reduce our carbon emissions. Everybody benefits, not just the teleworkers.

Prior to the Committee's consideration of the bill, several improvements were made to the legislation—many at our request. First, the reported version includes stronger language regarding the protection of information being accessed through remote networks. This IT security language is important to reassure the general public that, as we promote the use of telework in federal agencies, the government is taking necessary steps to make sure personal information is safeguarded.

Second, the reported version requires agencies to further integrate telework into their continuity of operations planning by making sure mission critical personnel are prepared to telework in the event of a major disaster, such as a terrorist attack or an outbreak of the pandemic flu.

Third, the reported version tasks the Chief Human Capital Officers Council with being a central coordinator of best practices for agencies regarding telework.

Fourth, the reported version gives agencies some flexibility in determining how best to promote telework within their workforce by allowing them to either assign the telework responsibilities to the agency's Chief Human Capital Officer or to a career official at the agency. I was concerned that the original legislation imposed an excessive amount of new bureaucracy upon the government in conjunction with telework—this added flexibility largely addresses my concern.

Promoting the use of telework by the federal workforce will improve employee efficiency and ultimately lead to better services being provided to the American public, and I appreciate the Chairman's willingness to work with us on this legislation.

TOM DAVIS.