

115TH CONGRESS
2D SESSION

H. R. 5081

To amend the Homeland Security Act of 2002 to establish within the Transportation Security Administration the Surface Transportation Security Advisory Committee, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 23, 2018

Mr. KATKO (for himself, Mrs. WATSON COLEMAN, and Mr. McCAUL) introduced the following bill; which was referred to the Committee on Homeland Security

A BILL

To amend the Homeland Security Act of 2002 to establish within the Transportation Security Administration the Surface Transportation Security Advisory Committee, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Surface Transpor-
5 tation Security and Technology Accountability Act of
6 2018”.

1 **SEC. 2. SURFACE TRANSPORTATION SECURITY ADVISORY**
2 **COMMITTEE.**

3 (a) IN GENERAL.—Title XVI of the Homeland Secu-
4 rity Act of 2002 (6 U.S.C. 561 et seq.) is amended by
5 adding at the end the following new subtitle:

6 **“Subtitle C—Surface**
7 **Transportation Security**

8 **“SEC. 1621. SURFACE TRANSPORTATION SECURITY ADVI-**
9 **SORY COMMITTEE.**

10 “(a) ESTABLISHMENT.—The Administrator of the
11 Transportation Security Administration (referred to in
12 this section as the ‘Administrator’) shall establish within
13 the Transportation Security Administration the Surface
14 Transportation Security Advisory Committee (referred to
15 in this section as the ‘Advisory Committee’).

16 “(b) DUTIES.—

17 “(1) IN GENERAL.—The Advisory Committee
18 may advise, consult with, report to, and make rec-
19 ommendations to the Administrator on surface
20 transportation security matters, including the devel-
21 opment, refinement, and implementation of policies,
22 programs, initiatives, rulemakings, and security di-
23 rectives pertaining to surface transportation secu-
24 rity.

1 “(2) RISK-BASED SECURITY.—The Advisory
2 Committee shall consider risk-based security ap-
3 proaches in the performance of its duties.

4 “(c) MEMBERSHIP.—

5 “(1) COMPOSITION.—The Advisory Committee
6 shall be composed of—

7 “(A) voting members appointed by the Ad-
8 ministrator under paragraph (2); and

9 “(B) nonvoting members, serving in an ad-
10 visory capacity, who shall be designated by—

11 “(i) the Transportation Security Ad-
12 ministration;

13 “(ii) the Department of Transpor-
14 tation; and

15 “(iii) such other Federal department
16 or agency as the Administrator considers
17 appropriate.

18 “(2) APPOINTMENT.—The Administrator shall
19 appoint voting members from among stakeholders
20 representing each mode of surface transportation,
21 such as passenger rail, freight rail, mass transit,
22 pipelines, highways, over-the-road bus, and trucking,
23 including representatives from—

24 “(A) associations representing such modes
25 of surface transportation;

1 “(B) labor organizations representing such
2 modes of surface transportation;

3 “(C) groups representing the users of such
4 modes of surface transportation, including asset
5 manufacturers, as appropriate;

6 “(D) relevant law enforcement, first re-
7 sponders, and security experts; and

8 “(E) such other groups as the Adminis-
9 trator considers appropriate.

10 “(3) CHAIRPERSON.—The Advisory Committee
11 shall select a chairperson from among its voting
12 members.

13 “(4) TERM OF OFFICE.—

14 “(A) TERMS.—

15 “(i) IN GENERAL.—The term of each
16 voting member of the Advisory Committee
17 shall be two years, but a voting member
18 may continue to serve until the Adminis-
19 trator appoints a successor.

20 “(ii) REAPPOINTMENT.—A voting
21 member of the Advisory Committee may be
22 reappointed.

23 “(B) REMOVAL.—

24 “(i) IN GENERAL.—The Administrator
25 may review the participation of a member

1 of the Advisory Committee and remove
2 such member for cause at any time.

3 “(ii) ACCESS TO CERTAIN INFORMA-
4 TION.—The Administrator may remove
5 any member of the Advisory Committee
6 who the Administrator determines should
7 be restricted from reviewing, discussing, or
8 possessing classified information or sen-
9 sitive security information.

10 “(5) PROHIBITION ON COMPENSATION.—The
11 members of the Advisory Committee may not receive
12 any compensation from the Government by reason of
13 their service on the Advisory Committee.

14 “(6) MEETINGS.—

15 “(A) IN GENERAL.—The Advisory Com-
16 mittee shall meet at least semiannually in per-
17 son or through web conferencing, and may con-
18 vene additional meetings as necessary.

19 “(B) PUBLIC MEETINGS.—At least one of
20 the meetings of the Advisory Committee each
21 year shall be—

22 “(i) announced in the Federal Reg-
23 ister;

24 “(ii) announced on a public website;
25 and

1 “(iii) open to the public.

2 “(C) ATTENDANCE.—The Advisory Com-
3 mittee shall maintain a record of the persons
4 present at each meeting.

5 “(D) MINUTES.—

6 “(i) IN GENERAL.—Unless otherwise
7 prohibited by Federal law, minutes of the
8 meetings of the Advisory Committee shall
9 be published on the public website under
10 subsection (e)(5).

11 “(ii) PROTECTION OF CLASSIFIED
12 AND SENSITIVE INFORMATION.—The Advi-
13 sory Committee may redact or summarize,
14 as necessary, minutes of the meetings to
15 protect classified information or sensitive
16 security information in accordance with
17 law.

18 “(7) VOTING MEMBER ACCESS TO CLASSIFIED
19 INFORMATION AND SENSITIVE SECURITY INFORMA-
20 TION.—

21 “(A) DETERMINATIONS.—Not later than
22 60 days after the date on which a voting mem-
23 ber is appointed to the Advisory Committee but
24 before such voting member may be granted any
25 access to classified information or sensitive se-

1 security information, the Administrator shall de-
2 termine if such voting member should be re-
3 stricted from reviewing, discussing, or pos-
4 sessing classified information or sensitive secu-
5 rity information.

6 “(B) ACCESS.—

7 “(i) SENSITIVE SECURITY INFORMA-
8 TION.—If a voting member is not re-
9 stricted from reviewing, discussing, or pos-
10 sessing sensitive security information
11 under subparagraph (A) and voluntarily
12 signs a nondisclosure agreement, such vot-
13 ing member may be granted access to sen-
14 sitive security information that is relevant
15 to such voting member’s service on the Ad-
16 visory Committee.

17 “(ii) CLASSIFIED INFORMATION.—Ac-
18 cess to classified materials shall be man-
19 aged in accordance with Executive Order
20 No. 13526 of December 29, 2009 (75 Fed.
21 Reg. 707), or any subsequent cor-
22 responding Executive order.

23 “(C) PROTECTIONS.—

24 “(i) SENSITIVE SECURITY INFORMA-
25 TION.—Voting members shall protect sen-

1 sitive security information in accordance
2 with part 1520 of title 49, Code of Federal
3 Regulations.

4 “(ii) CLASSIFIED INFORMATION.—
5 Voting members shall protect classified in-
6 formation in accordance with the applica-
7 ble requirements for the particular level of
8 classification of such information.

9 “(8) JOINT COMMITTEE MEETINGS.—The Advi-
10 sory Committee may meet with one or more of the
11 following advisory committees to discuss multimodal
12 security issues and other security-related issues of
13 common concern:

14 “(A) Aviation Security Advisory Com-
15 mittee, established under section 44946 of title
16 49, United States Code.

17 “(B) Maritime Security Advisory Com-
18 mittee, established under section 70112 of title
19 46, United States Code.

20 “(C) Railroad Safety Advisory Committee,
21 established by the Federal Railroad Administra-
22 tion.

23 “(9) SUBJECT MATTER EXPERTS.—The Advi-
24 sory Committee may request the assistance of sub-

1 ject matter experts with expertise related to the ju-
2 risdiction of the Advisory Committee.

3 “(d) REPORTS.—

4 “(1) PERIODIC REPORTS.—The Advisory Com-
5 mittee shall periodically submit to the Administrator
6 reports on matters requested by the Administrator
7 or by a majority of the members of the Advisory
8 Committee.

9 “(2) ANNUAL REPORT.—

10 “(A) SUBMISSION.—The Advisory Com-
11 mittee shall submit to the Administrator and
12 the Committee on Homeland Security of the
13 House of Representatives and the Committee
14 on Commerce, Science, and Transportation of
15 the Senate an annual report that provides infor-
16 mation on the activities, findings, and rec-
17 ommendations of the Advisory Committee dur-
18 ing the preceding year.

19 “(B) PUBLICATION.—Not later than six
20 months after the date that the Administrator
21 receives an annual report under subparagraph
22 (A), the Administrator shall publish a public
23 version of such report, in accordance with sec-
24 tion 552a(b) of title 5, United States Code.

25 “(e) ADMINISTRATION RESPONSE.—

1 “(1) CONSIDERATION.—The Administrator
2 shall consider the information, advice, and rec-
3 ommendations of the Advisory Committee in formu-
4 lating policies, programs, initiatives, rulemakings,
5 and security directives pertaining to surface trans-
6 portation security efforts.

7 “(2) FEEDBACK.—Not later than 90 days after
8 the date that the Administrator receives a rec-
9 ommendation from the Advisory Committee under
10 subsection (d)(2), the Administrator shall submit to
11 the Advisory Committee written feedback on such
12 recommendation, including—

13 “(A) if the Administrator agrees with such
14 recommendation, a plan describing the actions
15 that the Administrator has taken, will take, or
16 recommends that the head of another Federal
17 department or agency take to implement such
18 recommendation; or

19 “(B) if the Administrator disagrees with
20 such recommendation, a justification for such
21 disagreement.

22 “(3) NOTICES.—Not later than 30 days after
23 the date the Administrator submits feedback under
24 paragraph (2), the Administrator shall—

1 “(A) notify the Committee on Homeland
2 Security of the House of Representatives and
3 the Committee on Commerce, Science, and
4 Transportation of the Senate of such feedback,
5 including the agreement or disagreement under
6 subparagraph (A) or (B) of such paragraph, as
7 applicable; and

8 “(B) provide the committees specified in
9 subparagraph (A) with a briefing upon request.

10 “(4) UPDATES.—Not later than 90 days after
11 the date the Administrator receives a recommenda-
12 tion from the Advisory Committee under subsection
13 (d)(2) that the Administrator agrees with, and quar-
14 terly thereafter until such recommendation is fully
15 implemented, the Administrator shall submit to the
16 Committee on Homeland Security of the House of
17 Representatives and the Committee on Commerce,
18 Science, and Transportation of the Senate a report
19 or post on the public website under paragraph (5)
20 an update on the status of such recommendation.

21 “(5) WEBSITE.—The Administrator shall main-
22 tain a public website that—

23 “(A) lists the members of the Advisory
24 Committee;

1 “(B) provides the contact information for
2 the Advisory Committee; and

3 “(C) information relating to meetings,
4 minutes, annual reports, and the implementa-
5 tion of recommendations under this section.

6 “(f) NONAPPLICABILITY OF FACA.—The Federal
7 Advisory Committee Act (5 U.S.C. App.) shall not apply
8 to the Advisory Committee or any subcommittee estab-
9 lished under this section.”.

10 (b) ADVISORY COMMITTEE MEMBERS.—

11 (1) VOTING MEMBERS.—Not later than 180
12 days after the date of the enactment of this Act, the
13 Administrator of the Transportation Security Ad-
14 ministration shall appoint the voting members of the
15 Surface Transportation Security Advisory Com-
16 mittee established under section 1621 of the Home-
17 land Security Act of 2002, as added by subsection
18 (a) of this section.

19 (2) NONVOTING MEMBERS.—Not later than 90
20 days after the date of the enactment of this Act,
21 each Federal department and agency with regulatory
22 authority over a mode of surface transportation, as
23 the Administrator of the Transportation Security
24 Administration considers appropriate, shall des-
25 ignate an appropriate representative to serve as a

1 nonvoting member of the Surface Transportation Se-
2 curity Advisory Committee.

3 (c) CLERICAL AMENDMENT.—The table of contents
4 in section 1(b) of the Homeland Security Act of 2002 is
5 amended by inserting after the item relating to section
6 1616 the following new items:

“Subtitle C—Surface Transportation Security

“Sec. 1621. Surface Transportation Security Advisory Committee.”.

7 **SEC. 3. TECHNOLOGY INVESTMENT PLAN.**

8 (a) IN GENERAL.—Section 1611 of the Homeland
9 Security Act of 2002 (6 U.S.C. 563) is amended by adding
10 at the end the following new subsection:

11 “(h) ADDITIONAL UPDATE REQUIREMENTS.—Up-
12 dates and reports required pursuant to subsection (g)
13 shall—

14 “(1) be prepared in consultation with individ-
15 uals and entity specified in subsection (b), as well as
16 the Surface Transportation Security Advisory Com-
17 mittee established by the Administrator pursuant to
18 section 1621;

19 “(2) include information relating to technology
20 investments by the Transportation Security Admin-
21 istration and the private sector that the Department
22 supports with research, development, testing, and
23 evaluation for aviation, air cargo, and surface trans-
24 portation security; and

1 “(3) to the extent practicable, include a classi-
2 fied addendum to report sensitive transportation se-
3 curity risks and associated capability gaps that
4 would be best addressed by security-related tech-
5 nology described in paragraph (2).”.

6 (b) **EFFECTIVE DATE.**—The amendment made by
7 subsection (a) shall take effect on the date of the enact-
8 ment of this Act and apply beginning with the first update
9 and report required under subsection (g) of section 1611
10 of the Homeland Security Act of 2002 that is required
11 after such date

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