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.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Surface Transportation Security and Technology Accountability Act of 2018”.
SEC. 2. SURFACE TRANSPORTATION SECURITY ADVISORY COMMITTEE.

(a) In General.—Title XVI of the Homeland Security Act of 2002 (6 U.S.C. 561 et seq.) is amended by adding at the end the following new subtitle:

“Subtitle C—Surface Transportation Security

“SEC. 1621. SURFACE TRANSPORTATION SECURITY ADVISORY COMMITTEE.

“(a) Establishment.—The Administrator of the Transportation Security Administration (referred to in this section as the ‘Administrator’) shall establish within the Transportation Security Administration the Surface Transportation Security Advisory Committee (referred to in this section as the ‘Advisory Committee’).

“(b) Duties.—

“(1) In General.—The Advisory Committee may advise, consult with, report to, and make recommendations to the Administrator on surface transportation security matters, including the development, refinement, and implementation of policies, programs, initiatives, rulemakings, and security directives pertaining to surface transportation security.
“(2) Risk-based security.—The Advisory Committee shall consider risk-based security approaches in the performance of its duties.

“(c) Membership.—

“(1) Composition.—The Advisory Committee shall be composed of—

“(A) voting members appointed by the Administrator under paragraph (2); and

“(B) nonvoting members, serving in an advisory capacity, who shall be designated by—

“(i) the Transportation Security Administration;

“(ii) the Department of Transportation; and

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

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

“(A) associations representing such modes of surface transportation;
“(B) labor organizations representing such modes of surface transportation;

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

“(D) relevant law enforcement, first responders, and security experts; and

“(E) such other groups as the Administrator considers appropriate.

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

“(4) TERM OF OFFICE.—

“(A) TERMS.—

“(i) IN GENERAL.—The term of each voting member of the Advisory Committee shall be two years, but a voting member may continue to serve until the Administrator appoints a successor.

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

“(B) REMOVAL.—

“(i) IN GENERAL.—The Administrator may review the participation of a member
of the Advisory Committee and remove
such member for cause at any time.

“(ii) Access to Certain Information.—The Administrator may remove
any member of the Advisory Committee
who the Administrator determines should
be restricted from reviewing, discussing, or
possessing classified information or sen-
sitive security information.

“(5) Prohibition on Compensation.—The
members of the Advisory Committee may not receive
any compensation from the Government by reason of
their service on the Advisory Committee.

“(6) Meetings.—

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

“(B) Public Meetings.—At least one of
the meetings of the Advisory Committee each
year shall be—

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

“(ii) announced on a public website;

and
“(iii) open to the public.

“(C) ATTENDANCE.—The Advisory Committee shall maintain a record of the persons present at each meeting.

“(D) MINUTES.—

“(i) In general.—Unless otherwise prohibited by Federal law, minutes of the meetings of the Advisory Committee shall be published on the public website under subsection (e)(5).

“(ii) Protection of classified and sensitive information.—The Advisory Committee may redact or summarize, as necessary, minutes of the meetings to protect classified information or sensitive security information in accordance with law.

“(7) Voting member access to classified information and sensitive security information.—

“(A) Determinations.—Not later than 60 days after the date on which a voting member is appointed to the Advisory Committee but before such voting member may be granted any access to classified information or sensitive se-
security information, the Administrator shall determine if such voting member should be restricted from reviewing, discussing, or possessing classified information or sensitive security information.

“(B) Access.—

“(i) Sensitive security information.—If a voting member is not restricted from reviewing, discussing, or possessing sensitive security information under subparagraph (A) and voluntarily signs a nondisclosure agreement, such voting member may be granted access to sensitive security information that is relevant to such voting member’s service on the Advisory Committee.

“(ii) Classified information.—Access to classified materials shall be managed in accordance with Executive Order No. 13526 of December 29, 2009 (75 Fed. Reg. 707), or any subsequent corresponding Executive order.

“(C) Protections.—

“(i) Sensitive security information.—Voting members shall protect sen-
sitive security information in accordance with part 1520 of title 49, Code of Federal Regulations.

“(ii) Classified information.—Voting members shall protect classified information in accordance with the applicable requirements for the particular level of classification of such information.

“(8) Joint committee meetings.—The Advisory Committee may meet with one or more of the following advisory committees to discuss multimodal security issues and other security-related issues of common concern:

“(A) Aviation Security Advisory Committee, established under section 44946 of title 49, United States Code.

“(B) Maritime Security Advisory Committee, established under section 70112 of title 46, United States Code.

“(C) Railroad Safety Advisory Committee, established by the Federal Railroad Administration.

“(9) Subject matter experts.—The Advisory Committee may request the assistance of sub-
ject matter experts with expertise related to the juris-
diction of the Advisory Committee.

“(d) REPORTS.—

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

“(2) ANNUAL REPORT.—

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

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

“(e) ADMINISTRATION RESPONSE.—
“(1) CONSIDERATION.—The Administrator shall consider the information, advice, and recommendations of the Advisory Committee in formulating policies, programs, initiatives, rulemakings, and security directives pertaining to surface transportation security efforts.

“(2) FEEDBACK.—Not later than 90 days after the date that the Administrator receives a recommendation from the Advisory Committee under subsection (d)(2), the Administrator shall submit to the Advisory Committee written feedback on such recommendation, including—

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

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

“(3) NOTICES.—Not later than 30 days after the date the Administrator submits feedback under paragraph (2), the Administrator shall—
“(A) notify the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate of such feedback, including the agreement or disagreement under subparagraph (A) or (B) of such paragraph, as applicable; and

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

“(4) UPDATES.—Not later than 90 days after the date the Administrator receives a recommendation from the Advisory Committee under subsection (d)(2) that the Administrator agrees with, and quarterly thereafter until such recommendation is fully implemented, the Administrator shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report or post on the public website under paragraph (5) an update on the status of such recommendation.

“(5) WEBSITE.—The Administrator shall maintain a public website that—

“(A) lists the members of the Advisory Committee;
“(B) provides the contact information for
the Advisory Committee; and
“(C) information relating to meetings,
minutes, annual reports, and the implementa-
tion of recommendations under this section.
“(f) NONAPPLICABILITY OF FACA.—The Federal
Advisory Committee Act (5 U.S.C. App.) shall not apply
to the Advisory Committee or any subcommittee estab-
lished under this section.”.

(b) ADVISORY COMMITTEE MEMBERS.—

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

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

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

"Subtitle C—Surface Transportation Security

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

SEC. 3. TECHNOLOGY INVESTMENT PLAN.

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

“(h) ADDITIONAL UPDATE REQUIREMENTS.—Updates and reports required pursuant to subsection (g) shall—

“(1) be prepared in consultation with individuals and entity specified in subsection (b), as well as the Surface Transportation Security Advisory Committee established by the Administrator pursuant to section 1621;

“(2) include information relating to technology investments by the Transportation Security Administration and the private sector that the Department supports with research, development, testing, and evaluation for aviation, air cargo, and surface transportation security; and
“(3) to the extent practicable, include a classified addendum to report sensitive transportation security risks and associated capability gaps that would be best addressed by security-related technology described in paragraph (2).”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and apply beginning with the first update and report required under subsection (g) of section 1611 of the Homeland Security Act of 2002 that is required after such date