

115TH CONGRESS
2D SESSION

H. R. 5081

IN THE SENATE OF THE UNITED STATES

JUNE 26, 2018

Received; read twice and referred to the Committee on Commerce, Science,
and Transportation

AN ACT

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,*

1 **SECTION 1. SHORT TITLE.**

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

5 **SEC. 2. SURFACE TRANSPORTATION SECURITY ADVISORY**
6 **COMMITTEE.**

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

10 **“Subtitle C—Surface**
11 **Transportation Security**

12 **“SEC. 1621. SURFACE TRANSPORTATION SECURITY ADVI-**
13 **SORY COMMITTEE.**

14 “(a) ESTABLISHMENT.—The Administrator of the
15 Transportation Security Administration (referred to in
16 this section as the ‘Administrator’) shall establish within
17 the Transportation Security Administration the Surface
18 Transportation Security Advisory Committee (referred to
19 in this section as the ‘Advisory Committee’).

20 “(b) DUTIES.—

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

1 rectives pertaining to surface transportation secu-
2 rity.

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

6 “(c) MEMBERSHIP.—

7 “(1) COMPOSITION.—The Advisory Committee
8 shall be composed of—

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

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

13 “(i) the Transportation Security Ad-
14 ministration;

15 “(ii) the Department of Transpor-
16 tation; and

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

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

1 “(A) associations representing such modes
2 of surface transportation;

3 “(B) labor organizations representing such
4 modes of surface transportation;

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

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

10 “(E) such other groups as the Adminis-
11 trator considers appropriate.

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

15 “(4) TERM OF OFFICE.—

16 “(A) TERMS.—

17 “(i) IN GENERAL.—The term of each
18 voting member of the Advisory Committee
19 shall be 2 years, but a voting member may
20 continue to serve until the Administrator
21 appoints a successor.

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

25 “(B) REMOVAL.—

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

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

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

16 “(6) MEETINGS.—

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

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

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

1 “(ii) announced on a public website;

2 and

3 “(iii) open to the public.

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

7 “(D) MINUTES.—

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

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

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

23 “(A) DETERMINATIONS.—Not later than
24 60 days after the date on which a voting mem-
25 ber is appointed to the Advisory Committee but

1 before such voting member may be granted any
2 access to classified information or sensitive se-
3 curity information, the Administrator shall de-
4 termine if such voting member should be re-
5 stricted from reviewing, discussing, or pos-
6 sessed classified information or sensitive secu-
7 rity information.

8 “(B) ACCESS.—

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

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

25 “(C) PROTECTIONS.—

1 “(i) SENSITIVE SECURITY INFORMA-
2 TION.—Voting members shall protect sen-
3 sitive security information in accordance
4 with part 1520 of title 49, Code of Federal
5 Regulations.

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

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

16 “(A) Aviation Security Advisory Com-
17 mittee, established under section 44946 of title
18 49, United States Code.

19 “(B) Maritime Security Advisory Com-
20 mittee, established under section 70112 of title
21 46, United States Code.

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

1 “(9) SUBJECT MATTER EXPERTS.—The Advi-
2 sory Committee may request the assistance of sub-
3 ject matter experts with expertise related to the ju-
4 risdiction of the Advisory Committee.

5 “(d) REPORTS.—

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

11 “(2) ANNUAL REPORT.—

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

21 “(B) PUBLICATION.—Not later than 6
22 months after the date that the Administrator
23 receives an annual report under subparagraph
24 (A), the Administrator shall publish a public

1 version of such report, in accordance with sec-
2 tion 552a(b) of title 5, United States Code.

3 “(e) ADMINISTRATION RESPONSE.—

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

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

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

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

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

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

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

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

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

1 “(A) lists the members of the Advisory
2 Committee;

3 “(B) provides the contact information for
4 the Advisory Committee; and

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

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

12 (b) ADVISORY COMMITTEE MEMBERS.—

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

21 (2) NONVOTING MEMBERS.—Not later than 90
22 days after the date of the enactment of this Act,
23 each Federal department and agency with regulatory
24 authority over a mode of surface transportation, as
25 the Administrator of the Transportation Security

1 Administration considers appropriate, shall des-
2 ignate an appropriate representative to serve as a
3 nonvoting member of the Surface Transportation Se-
4 curity Advisory Committee.

5 (c) CLERICAL AMENDMENT.—The table of contents
6 in section 1(b) of the Homeland Security Act of 2002 is
7 amended by inserting after the item relating to section
8 1616 the following new items:

“Subtitle C—Surface Transportation Security

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

9 **SEC. 3. TECHNOLOGY INVESTMENT PLAN.**

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

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

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

21 “(2) include information relating to technology
22 investments by the Transportation Security Admin-
23 istration and the private sector that the Department
24 supports with research, development, testing, and

1 evaluation for aviation, air cargo, and surface trans-
2 portation security; and

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

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

Passed the House of Representatives June 25, 2018.

Attest:

KAREN L. HAAS,

Clerk.