

Calendar No. 598

113TH CONGRESS
2D SESSION**S. 1804****[Report No. 113–273]**

To amend title 49, United States Code, to direct the Assistant Secretary of Homeland Security (Transportation Security Administration) to establish an Aviation Security Advisory Committee, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 11, 2013

Mr. TESTER (for himself and Mr. BEGICH) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

NOVEMBER 17, 2014

Reported by Mr. ROCKEFELLER, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To amend title 49, United States Code, to direct the Assistant Secretary of Homeland Security (Transportation Security Administration) to establish an Aviation 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 “Aviation Security
3 Stakeholder Participation Act of 2013”.

4 **SEC. 2. AVIATION SECURITY ADVISORY COMMITTEE.**

5 (a) IN GENERAL.—Subchapter II of chapter 449 of
6 title 49, United States Code, is amended by adding at the
7 end the following:

8 **“§ 44946. Aviation Security Advisory Committee**

9 “(a) ESTABLISHMENT.—The Assistant Secretary
10 shall establish within the Transportation Security Admin-
11 istration an advisory committee to be known as the ‘Avia-
12 tion Security Advisory Committee’.

13 “(b) DUTIES.—

14 “(1) IN GENERAL.—The Assistant Secretary
15 shall consult the Advisory Committee on aviation se-
16 curity matters, including on the development, refine-
17 ment, and implementation of policies, programs,
18 rulemaking, and security directives pertaining to
19 aviation security, while adhering to sensitive security
20 guidelines.

21 “(2) RECOMMENDATIONS.—

22 “(A) IN GENERAL.—The Advisory Com-
23 mittee shall develop, at the request of the As-
24 sistant Secretary, recommendations for im-
25 provements to aviation security.

1 “(B) RECOMMENDATIONS OF SUBCOMMIT-
2 TEES.—Recommendations agreed upon by the
3 subcommittees established under this section
4 shall be approved by the Advisory Committee
5 for transmission to the Assistant Secretary.

6 “(3) PERIODIC REPORTS.—The Advisory Com-
7 mittee shall periodically submit to the Assistant Sec-
8 retary—

9 “(A) reports on matters identified by the
10 Assistant Secretary; and

11 “(B) reports on other matters identified by
12 a majority of the members of the Advisory
13 Committee.

14 “(4) ANNUAL REPORT.—The Advisory Com-
15 mittee shall submit to the Assistant Secretary an an-
16 nual report providing information on the activities,
17 findings, and recommendations of the Advisory Com-
18 mittee, including its subcommittees, for the pre-
19 ceding year.

20 “(5) FEEDBACK.—Not later than 90 days after
21 receiving recommendations transmitted by the Advi-
22 sory Committee under paragraph (4), the Assistant
23 Secretary shall respond in writing to the Advisory
24 Committee with feedback on each of such rec-
25 ommendations, an action plan to implement any of

1 such recommendations with which the Assistant Sec-
 2 retary concurs, and a detailed justification for why
 3 any of such recommendations have been rejected.

4 “(6) CONGRESSIONAL NOTIFICATION.—Not
 5 later than 30 days after providing written feedback
 6 to the Advisory Committee in accordance with para-
 7 graph (5), the Assistant Secretary shall brief the
 8 Committee on Homeland Security of the House of
 9 Representatives and the Committee on Commerce,
 10 Science, and Transportation of the Senate on such
 11 feedback.

12 “(7) REPORT TO CONGRESS.—Prior to briefing
 13 the Committee on Homeland Security of the House
 14 of Representatives and the Committee on Commerce,
 15 Science, and Transportation of the Senate in accord-
 16 ance with paragraph (6), the Assistant Secretary
 17 shall submit to such committees a report containing
 18 information relating to the recommendations trans-
 19 mitted by the Advisory Committee in accordance
 20 with paragraph (4).

21 “(c) MEMBERSHIP.—

22 “(1) APPOINTMENT.—

23 “(A) IN GENERAL.—Not later than 180
 24 days after the date of enactment of this section,

1 the Assistant Secretary shall appoint the mem-
2 bers of the Advisory Committee.

3 “(B) COMPOSITION.—The membership of
4 the Advisory Committee shall consist of individ-
5 uals representing not more than 34 member or-
6 ganizations. Each organization shall be rep-
7 resented by one individual (or the individual’s
8 designee).

9 “(C) REPRESENTATION.—The membership
10 of the Advisory Committee shall include rep-
11 resentatives of air carriers, all-cargo air trans-
12 portation, indirect air carriers, labor organiza-
13 tions representing air carrier employees, air-
14 craft manufacturers, airport operators, airport
15 construction and maintenance contractors, labor
16 organizations representing employees of airport
17 construction and maintenance contractors, gen-
18 eral aviation, privacy organizations, the travel
19 industry, airport-based businesses (including
20 minority-owned small businesses), businesses
21 that conduct security operations at airports,
22 aeronautical repair stations, passenger advocacy
23 groups, the aviation technology security indus-
24 try (including biometrics), victims of terrorist

1 acts against aviation, and law enforcement and
2 security experts.

3 ~~“(2) REMOVAL.—~~The Assistant Secretary may
4 review the participation of a member of the Advisory
5 Committee and remove such member for cause at
6 any time.

7 ~~“(3) PROHIBITION ON COMPENSATION.—~~The
8 members of the Advisory Committee shall not re-
9 ceive pay, allowances, or benefits from the Govern-
10 ment by reason of their service on the Advisory
11 Committee.

12 ~~“(4) MEETINGS.—~~The Assistant Secretary shall
13 require the Advisory Committee to meet at least
14 semiannually and may convene additional meetings
15 as necessary.

16 ~~“(d) AIR CARGO SECURITY SUBCOMMITTEE.—~~

17 ~~“(1) IN GENERAL.—~~The Assistant Secretary
18 shall establish within the Advisory Committee an air
19 cargo security subcommittee to provide recommenda-
20 tions on air cargo security issues, including the im-
21 plementation of the air cargo security programs es-
22 tablished by the Transportation Security Adminis-
23 tration to screen air cargo on passenger aircraft and
24 all-cargo aircraft in accordance with established
25 cargo screening mandates.

1 “(2) MEETINGS AND REPORTING.—The sub-
 2 committee shall meet at least quarterly and submit
 3 to the Advisory Committee for inclusion in the an-
 4 nual report required under subsection (b)(4) infor-
 5 mation, including recommendations, regarding air
 6 cargo security. Such submissions shall include rec-
 7 ommendations to improve the Transportation Secu-
 8 rity Administration’s cargo security initiatives estab-
 9 lished to meet the requirements of section 44901(g).

10 “(3) MEMBERSHIP.—The subcommittee shall—

11 “(A) include members of the Advisory
 12 Committee with expertise in air cargo oper-
 13 ations; and

14 “(B) be cochaired by a Government and
 15 industry official.

16 “(e) GENERAL AVIATION SECURITY SUB-
 17 COMMITTEE.—

18 “(1) IN GENERAL.—The Assistant Secretary
 19 shall establish within the Advisory Committee a gen-
 20 eral aviation subcommittee to provide recommenda-
 21 tions on transportation security issues for general
 22 aviation facilities, general aviation aircraft, and heli-
 23 copter operations at general aviation and commercial
 24 service airports.

1 ~~“(2) MEETINGS AND REPORTING.—~~The sub-
 2 committee shall meet at least quarterly and submit
 3 to the Advisory Committee for inclusion in the an-
 4 nual report required under subsection (b)(4) infor-
 5 mation, including recommendations, regarding avia-
 6 tion security at general aviation airports.

7 ~~“(3) MEMBERSHIP.—~~The subcommittee shall—

8 ~~“(A) include members of the Advisory~~
 9 Committee with expertise in general aviation;
 10 and

11 ~~“(B) be cochaired by a Government and~~
 12 industry official.

13 ~~“(f) PERIMETER SECURITY, EXIT LANE SECURITY,~~
 14 AND ACCESS CONTROL SUBCOMMITTEE.—

15 ~~“(1) IN GENERAL.—~~The Assistant Secretary
 16 shall establish within the Advisory Committee an
 17 airport perimeter security, exit lane security, and ac-
 18 cess control subcommittee to provide recommenda-
 19 tions on airport perimeter security, exit lane security
 20 at commercial service airports, and access control
 21 issues.

22 ~~“(2) MEETINGS AND REPORTING.—~~The sub-
 23 committee shall meet at least quarterly and submit
 24 to the Advisory Committee for inclusion in the an-
 25 nual report required under subsection (b)(4) infor-

1 mation, including recommendations, regarding im-
 2 proving perimeter security, exit lane security at com-
 3 mercial service airports, and access control proce-
 4 dures at commercial service and general aviation air-
 5 ports.

6 ~~“(3) MEMBERSHIP.—~~The subcommittee shall—

7 ~~“(A) include members of the Advisory~~
 8 Committee with expertise in airport perimeter
 9 security and access control issues; and

10 ~~“(B) be co-chaired by a Government and~~
 11 industry official.

12 ~~“(g) RISK-BASED SUBCOMMITTEE.—~~

13 ~~“(1) IN GENERAL.—~~The Assistant Secretary
 14 shall establish within the Advisory Committee a risk-
 15 based subcommittee to provide recommendations on
 16 passenger screening policies and cargo.

17 ~~“(2) MEETINGS AND REPORTING.—~~The sub-
 18 committee shall meet at least quarterly and submit
 19 to the Advisory Committee for inclusion in the an-
 20 nual report required under subsection (b)(4) infor-
 21 mation, including recommendations, regarding the
 22 Transportation Security Administration’s risk-based
 23 security programs.

24 ~~“(3) MEMBERSHIP.—~~The subcommittee shall—

1 “(A) include members of the Advisory
2 Committee with expertise in passenger advocacy
3 and airport security operations; and

4 “(B) be cochaired by a Government and
5 industry official.

6 ~~“(h) SECURITY TECHNOLOGY SUBCOMMITTEE.—~~

7 ~~“(1) IN GENERAL.—The Assistant Secretary~~
8 ~~shall establish within the Advisory Committee a se-~~
9 ~~curity technology subcommittee to provide rec-~~
10 ~~ommendations on security technology issues, includ-~~
11 ~~ing harmonization of security technology standards~~
12 ~~and requirements.~~

13 ~~“(2) MEETINGS AND REPORTING.—The sub-~~
14 ~~committee shall meet at least quarterly and submit~~
15 ~~to the Advisory Committee for inclusion in the an-~~
16 ~~nuual report required under subsection (b)(4) infor-~~
17 ~~mation, including recommendations, regarding secu-~~
18 ~~rity technology. Such submissions shall include rec-~~
19 ~~ommendations to improve the Transportation Secu-~~
20 ~~rity Administration’s utilization of security tech-~~
21 ~~nology and harmonization of security technology~~
22 ~~standards and requirements. All recommendations~~
23 ~~shall be in furtherance of aviation security and tech-~~
24 ~~nology neutral.~~

25 ~~“(3) MEMBERSHIP.—The subcommittee shall—~~

1 “(A) include members of the Advisory
2 Committee with expertise in checkpoint, bag-
3 gage, and air cargo security technology; and

4 “(B) be co-chaired by a Government and
5 industry official.

6 “(i) OTHER SUBCOMMITTEES.—The Assistant Sec-
7 retary, in consultation with the Advisory Committee, may
8 establish within the Advisory Committee any other sub-
9 committee that the Assistant Secretary and Advisory
10 Committee determine necessary.

11 “(j) SUBJECT MATTER EXPERTS.—Each sub-
12 committee under this section shall include subject matter
13 experts with relevant expertise who are appointed by the
14 respective subcommittee chairperson.

15 “(k) NONAPPLICABILITY OF FACA.—The Federal
16 Advisory Committee Act (5 U.S.C. App.) shall not apply
17 to the Advisory Committee and its subcommittees.

18 “(l) DEFINITIONS.—In this section:

19 “(1) ADVISORY COMMITTEE.—The term ‘Advi-
20 sory Committee’ means the Aviation Security Advi-
21 sory Committee established under subsection (a).

22 “(2) ASSISTANT SECRETARY.—The term ‘As-
23 sistant Secretary’ means the Assistant Secretary of
24 Homeland Security (Transportation Security Admin-
25 istration).

1 ~~“(3) PERIMETER SECURITY.—The term ‘perim-~~
 2 ~~eter security’—~~

3 ~~“(A) means procedures or systems to mon-~~
 4 ~~itor, secure, and prevent unauthorized access to~~
 5 ~~an airport, including its airfield and terminal;~~
 6 ~~and~~

7 ~~“(B) includes the fence area surrounding~~
 8 ~~an airport, access gates, and access controls.”.~~

9 ~~(b) CLERICAL AMENDMENT.—The analysis for sub-~~
 10 ~~chapter II of chapter 449 of title 49, United States Code,~~
 11 ~~is amended by adding at the end the following new item:~~
 ~~“44946. Aviation Security Advisory Committee.”.~~

12 **SECTION 1. SHORT TITLE.**

13 *This Act may be cited as the “Aviation Security Stake-*
 14 *holder Participation Act of 2014”.*

15 **SEC. 2. AVIATION SECURITY ADVISORY COMMITTEE.**

16 *(a) IN GENERAL.—Subchapter II of chapter 449 of*
 17 *title 49, United States Code, is amended by adding at the*
 18 *end the following:*

19 **“§ 44946. Aviation Security Advisory Committee**

20 ~~“(a) ESTABLISHMENT.—The Assistant Secretary shall~~
 21 ~~establish within the Transportation Security Administra-~~
 22 ~~tion an aviation security advisory committee.~~

23 ~~“(b) DUTIES.—~~

24 ~~“(1) IN GENERAL.—The Assistant Secretary~~
 25 ~~shall consult the Advisory Committee, as appropriate,~~

1 *on aviation security matters, including on the devel-*
 2 *opment, refinement, and implementation of policies,*
 3 *programs, rulemaking, and security directives per-*
 4 *taining to aviation security, while adhering to sen-*
 5 *sitive security guidelines.*

6 “(2) *RECOMMENDATIONS.—*

7 “(A) *IN GENERAL.—The Advisory Com-*
 8 *mittee shall develop, at the request of the Assist-*
 9 *ant Secretary, recommendations for improve-*
 10 *ments to aviation security.*

11 “(B) *RECOMMENDATIONS OF SUBCOMMIT-*
 12 *TEES.—Recommendations agreed upon by the*
 13 *subcommittees established under this section shall*
 14 *be approved by the Advisory Committee before*
 15 *transmission to the Assistant Secretary.*

16 “(3) *PERIODIC REPORTS.—The Advisory Com-*
 17 *mittee shall periodically submit to the Assistant Sec-*
 18 *retary—*

19 “(A) *reports on matters identified by the*
 20 *Assistant Secretary; and*

21 “(B) *reports on other matters identified by*
 22 *a majority of the members of the Advisory Com-*
 23 *mittee.*

24 “(4) *ANNUAL REPORT.—The Advisory Committee*
 25 *shall submit to the Assistant Secretary an annual re-*

1 *port providing information on the activities, findings,*
2 *and recommendations of the Advisory Committee, in-*
3 *cluding its subcommittees, for the preceding year.*

4 “(5) *FEEDBACK.*—Not later than 90 days after
5 *receiving recommendations transmitted by the Advi-*
6 *sory Committee under paragraph (4), the Assistant*
7 *Secretary shall respond in writing to the Advisory*
8 *Committee with feedback on each of the recommenda-*
9 *tions, an action plan to implement any of the rec-*
10 *ommendations with which the Assistant Secretary*
11 *concurs, and a justification for why any of the rec-*
12 *ommendations have been rejected.*

13 “(6) *CONGRESSIONAL NOTIFICATION.*—Not later
14 *than 30 days after providing written feedback to the*
15 *Advisory Committee under paragraph (5), the Assist-*
16 *ant Secretary shall notify the Committee on Com-*
17 *merce, Science, and Transportation of the Senate and*
18 *the Committee on Homeland Security of the House of*
19 *Representatives on such feedback, and provide a brief-*
20 *ing upon request.*

21 “(7) *REPORT TO CONGRESS.*—Prior to briefing
22 *the Committee on Commerce, Science, and Transpor-*
23 *tation of the Senate and the Committee on Homeland*
24 *Security of the House of Representatives under para-*
25 *graph (6), the Assistant Secretary shall submit to*

1 *such committees a report containing information re-*
 2 *lating to the recommendations transmitted by the Ad-*
 3 *visory Committee in accordance with paragraph (4).*

4 *“(c) MEMBERSHIP.—*

5 *“(1) APPOINTMENT.—*

6 *“(A) IN GENERAL.—Not later than 180*
 7 *days after the date of enactment of the Aviation*
 8 *Security Stakeholder Participation Act of 2014,*
 9 *the Assistant Secretary shall appoint the mem-*
 10 *bers of the Advisory Committee.*

11 *“(B) COMPOSITION.—The membership of*
 12 *the Advisory Committee shall consist of individ-*
 13 *uals representing not more than 34 member or-*
 14 *ganizations. Each organization shall be rep-*
 15 *resented by 1 individual (or the individual’s des-*
 16 *ignee).*

17 *“(C) REPRESENTATION.—The membership*
 18 *of the Advisory Committee shall include rep-*
 19 *resentatives of air carriers, all-cargo air trans-*
 20 *portation, indirect air carriers, labor organiza-*
 21 *tions representing air carrier employees, labor*
 22 *organizations representing transportation secu-*
 23 *rity officers, aircraft manufacturers, airport op-*
 24 *erators, airport construction and maintenance*
 25 *contractors, labor organizations representing em-*

1 *ployees of airport construction and maintenance*
 2 *contractors, general aviation, privacy organiza-*
 3 *tions, the travel industry, airport-based busi-*
 4 *nesses (including minority-owned small busi-*
 5 *nesses), businesses that conduct security oper-*
 6 *ations at airports, aeronautical repair stations,*
 7 *passenger advocacy groups, the aviation security*
 8 *technology industry (including screening tech-*
 9 *nology and biometrics), victims of terrorist acts*
 10 *against aviation, and law enforcement and secu-*
 11 *rity experts.*

12 “(2) *REMOVAL.*—*The Assistant Secretary may*
 13 *review the participation of a member of the Advisory*
 14 *Committee and remove such member for cause at any*
 15 *time.*

16 “(3) *PROHIBITION ON COMPENSATION.*—*The*
 17 *members of the Advisory Committee shall not receive*
 18 *pay, allowances, or benefits from the Government by*
 19 *reason of their service on the Advisory Committee.*

20 “(4) *MEETINGS.*—*The Assistant Secretary shall*
 21 *require the Advisory Committee to meet at least semi-*
 22 *annually and may convene additional meetings as*
 23 *necessary.*

24 “(5) *MEMBER ACCESS TO SENSITIVE SECURITY*
 25 *INFORMATION.*—*Not later than 60 days after the date*

1 of a member's appointment, the Assistant Secretary
 2 shall determine if there is cause for the member to be
 3 restricted from possessing Sensitive Security Informa-
 4 tion. Without such cause, and upon the member vol-
 5 untarily signing a non-disclosure agreement, the
 6 member may be granted access to Sensitive Security
 7 Information that is relevant to the member's advisory
 8 duties. The member shall protect the Sensitive Secu-
 9 rity Information according to part 1520 of title 49 of
 10 the Code of Federal Regulations.

11 “(6) CHAIRPERSON.—A stakeholder representa-
 12 tive on the Advisory Committee who is elected by the
 13 appointed membership of the Advisory Committee
 14 shall chair the Advisory Committee.

15 “(d) SUBCOMMITTEES.—

16 “(1) MEMBERSHIP.—The Advisory Committee
 17 chairperson, in coordination with the Assistant Sec-
 18 retary, may establish within the Advisory Committee
 19 any subcommittee that the Assistant Secretary and
 20 Advisory Committee determine to be necessary. The
 21 Assistant Secretary and the Advisory Committee shall
 22 create subcommittees to address aviation security
 23 issues, including the following:

24 “(A) AIR CARGO SECURITY.—The imple-
 25 mentation of the air cargo security programs es-

1 *tablished by the Transportation Security Admin-*
 2 *istration to screen air cargo on passenger air-*
 3 *craft and all-cargo aircraft in accordance with*
 4 *established cargo screening mandates.*

5 “(B) *GENERAL AVIATION.*—*General avia-*
 6 *tion facilities, general aviation aircraft, and hel-*
 7 *icopter operations at general aviation and com-*
 8 *mercial service airports.*

9 “(C) *PERIMETER AND ACCESS CONTROL.*—
 10 *Recommendations on airport perimeter security,*
 11 *exit lane security and technology at commercial*
 12 *service airports, and access control issues.*

13 “(D) *SECURITY TECHNOLOGY.*—*Security*
 14 *technology standards and requirements, includ-*
 15 *ing their harmonization internationally; tech-*
 16 *nology to screen passengers, passenger baggage,*
 17 *carry-on baggage, and cargo; and biometric tech-*
 18 *nology.*

19 “(2) *RISK-BASED SECURITY.*—*All subcommittees*
 20 *established by the Advisory Committee co-chairs shall*
 21 *consider risk-based security approaches in the per-*
 22 *formance of their functions that weigh optimum bal-*
 23 *ance of costs and benefits in transportation security,*
 24 *including for passenger screening, baggage screening,*

1 *air cargo security policies, and general aviation secu-*
 2 *rity matters.*

3 “(3) *MEETINGS AND REPORTING.*—*Each sub-*
 4 *committee shall meet at least quarterly and submit to*
 5 *the Advisory Committee for inclusion in the annual*
 6 *report required under subsection (b)(4) information,*
 7 *including recommendations, regarding issues within*
 8 *the subcommittee.*

9 “(4) *SUBCOMMITTEE CHAIRS.*—*Each sub-*
 10 *committee shall be co-chaired by a Government and*
 11 *an industry official.*

12 “(e) *SUBJECT MATTER EXPERTS.*—*Each sub-*
 13 *committee under this section shall include subject matter*
 14 *experts with relevant expertise who are appointed by the*
 15 *respective subcommittee chairperson.*

16 “(f) *NONAPPLICABILITY OF FACA.*—*The Federal Advi-*
 17 *sory Committee Act (5 U.S.C. App.) shall not apply to the*
 18 *Advisory Committee and its subcommittees.*

19 “(g) *DEFINITIONS.*—*In this section:*

20 “(1) *ADVISORY COMMITTEE.*—*The term ‘Advi-*
 21 *sory Committee’ means the aviation security advisory*
 22 *committee established under subsection (a).*

23 “(2) *ASSISTANT SECRETARY.*—*The term ‘Assist-*
 24 *ant Secretary’ means the Assistant Secretary of*

1 *Homeland Security (Transportation Security Admin-*
 2 *istration).*

3 “(3) *PERIMETER SECURITY.*—

4 “(A) *IN GENERAL.*—*The term ‘perimeter se-*
 5 *curity’ means procedures or systems to monitor,*
 6 *secure, and prevent unauthorized access to an*
 7 *airport, including its airfield and terminal.*

8 “(B) *INCLUSIONS.*—*The term ‘perimeter se-*
 9 *curity’ includes the fence area surrounding an*
 10 *airport, access gates, and access controls.”.*

11 (b) *CLERICAL AMENDMENT.*—*The analysis for sub-*
 12 *chapter II of chapter 449 of title 49, United States Code,*
 13 *is amended by adding at the end the following new item:*

“44946. *Aviation Security Advisory Committee.*”.

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A BILL

To amend title 49, United States Code, to direct the Assistant Secretary of Homeland Security (Transportation Security Administration) to establish an Aviation Security Advisory Committee, and for other purposes.

NOVEMBER 17, 2014

Reported with an amendment