

115TH CONGRESS  
2D SESSION

# H. R. 5081

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## 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 sessing 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 sessing 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 sitive 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:

*Clerk.*



115<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5081

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## 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.