

Union Calendar No. 467

115TH CONGRESS
2^D SESSION

H. R. 5081

[Report No. 115-611]

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

MARCH 19, 2018

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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”.

7 **SEC. 2. SURFACE TRANSPORTATION SECURITY ADVISORY**
8 **COMMITTEE.**

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

12 **“Subtitle C—Surface**
13 **Transportation Security**

14 **“SEC. 1621. SURFACE TRANSPORTATION SECURITY ADVI-**
15 **SORY COMMITTEE.**

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

22 “(b) DUTIES.—

23 “(1) IN GENERAL.—The Advisory Committee
24 may advise, consult with, report to, and make rec-
25 ommendations to the Administrator on surface

1 transportation security matters, including the devel-
2 opment, refinement, and implementation of policies,
3 programs, initiatives, rulemakings, and security di-
4 rectives pertaining to surface transportation secu-
5 rity.

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

9 “(c) MEMBERSHIP.—

10 “(1) COMPOSITION.—The Advisory Committee
11 shall be composed of—

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

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

16 “(i) the Transportation Security Ad-
17 ministration;

18 “(ii) the Department of Transpor-
19 tation; and

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

23 “(2) APPOINTMENT.—The Administrator shall
24 appoint voting members from among stakeholders
25 representing each mode of surface transportation,

1 such as passenger rail, freight rail, mass transit,
2 pipelines, highways, over-the-road bus, and trucking,
3 including representatives from—

4 “(A) associations representing such modes
5 of surface transportation;

6 “(B) labor organizations representing such
7 modes of surface transportation;

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

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

13 “(E) such other groups as the Adminis-
14 trator considers appropriate.

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

18 “(4) TERM OF OFFICE.—

19 “(A) TERMS.—

20 “(i) IN GENERAL.—The term of each
21 voting member of the Advisory Committee
22 shall be two years, but a voting member
23 may continue to serve until the Adminis-
24 trator appoints a successor.

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

4 “(B) REMOVAL.—

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

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

16 “(5) PROHIBITION ON COMPENSATION.—The
17 members of the Advisory Committee may not receive
18 any compensation from the Government by reason of
19 their service on the Advisory Committee.

20 “(6) MEETINGS.—

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

1 “(B) PUBLIC MEETINGS.—At least one of
2 the meetings of the Advisory Committee each
3 year shall be—

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

6 “(ii) announced on a public website;
7 and

8 “(iii) open to the public.

9 “(C) ATTENDANCE.—The Advisory Com-
10 mittee shall maintain a record of the persons
11 present at each meeting.

12 “(D) MINUTES.—

13 “(i) IN GENERAL.—Unless otherwise
14 prohibited by Federal law, minutes of the
15 meetings of the Advisory Committee shall
16 be published on the public website under
17 subsection (e)(5).

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

1 “(7) VOTING MEMBER ACCESS TO CLASSIFIED
2 INFORMATION AND SENSITIVE SECURITY INFORMA-
3 TION.—

4 “(A) DETERMINATIONS.—Not later than
5 60 days after the date on which a voting mem-
6 ber is appointed to the Advisory Committee but
7 before such voting member may be granted any
8 access to classified information or sensitive se-
9 curity information, the Administrator shall de-
10 termine if such voting member should be re-
11 stricted from reviewing, discussing, or pos-
12 sessed classified information or sensitive secu-
13 rity information.

14 “(B) ACCESS.—

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

1 “(ii) CLASSIFIED INFORMATION.—Ac-
2 cess to classified materials shall be man-
3 aged in accordance with Executive Order
4 No. 13526 of December 29, 2009 (75 Fed.
5 Reg. 707), or any subsequent cor-
6 responding Executive order.

7 “(C) PROTECTIONS.—

8 “(i) SENSITIVE SECURITY INFORMA-
9 TION.—Voting members shall protect sen-
10 sitive security information in accordance
11 with part 1520 of title 49, Code of Federal
12 Regulations.

13 “(ii) CLASSIFIED INFORMATION.—
14 Voting members shall protect classified in-
15 formation in accordance with the applica-
16 ble requirements for the particular level of
17 classification of such information.

18 “(8) JOINT COMMITTEE MEETINGS.—The Advi-
19 sory Committee may meet with one or more of the
20 following advisory committees to discuss multimodal
21 security issues and other security-related issues of
22 common concern:

23 “(A) Aviation Security Advisory Com-
24 mittee, established under section 44946 of title
25 49, United States Code.

1 “(B) Maritime Security Advisory Com-
2 mittee, established under section 70112 of title
3 46, United States Code.

4 “(C) Railroad Safety Advisory Committee,
5 established by the Federal Railroad Administra-
6 tion.

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

11 “(d) REPORTS.—

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

17 “(2) ANNUAL REPORT.—

18 “(A) SUBMISSION.—The Advisory Com-
19 mittee shall submit to the Administrator and
20 the Committee on Homeland Security of the
21 House of Representatives and the Committee
22 on Commerce, Science, and Transportation of
23 the Senate an annual report that provides infor-
24 mation on the activities, findings, and rec-

1 ommendations of the Advisory Committee dur-
2 ing the preceding year.

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

9 “(e) ADMINISTRATION RESPONSE.—

10 “(1) CONSIDERATION.—The Administrator
11 shall consider the information, advice, and rec-
12 ommendations of the Advisory Committee in formu-
13 lating policies, programs, initiatives, rulemakings,
14 and security directives pertaining to surface trans-
15 portation security efforts.

16 “(2) FEEDBACK.—Not later than 90 days after
17 the date that the Administrator receives a rec-
18 ommendation from the Advisory Committee under
19 subsection (d)(2), the Administrator shall submit to
20 the Advisory Committee written feedback on such
21 recommendation, including—

22 “(A) if the Administrator agrees with such
23 recommendation, a plan describing the actions
24 that the Administrator has taken, will take, or
25 recommends that the head of another Federal

1 department or agency take to implement such
2 recommendation; or

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

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

9 “(A) notify the Committee on Homeland
10 Security of the House of Representatives and
11 the Committee on Commerce, Science, and
12 Transportation of the Senate of such feedback,
13 including the agreement or disagreement under
14 subparagraph (A) or (B) of such paragraph, as
15 applicable; and

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

18 “(4) UPDATES.—Not later than 90 days after
19 the date the Administrator receives a recommenda-
20 tion from the Advisory Committee under subsection
21 (d)(2) that the Administrator agrees with, and quar-
22 terly thereafter until such recommendation is fully
23 implemented, the Administrator shall submit to the
24 Committee on Homeland Security of the House of
25 Representatives and the Committee on Commerce,

1 Science, and Transportation of the Senate a report
2 or post on the public website under paragraph (5)
3 an update on the status of such recommendation.

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

6 “(A) lists the members of the Advisory
7 Committee;

8 “(B) provides the contact information for
9 the Advisory Committee; and

10 “(C) information relating to meetings,
11 minutes, annual reports, and the implementa-
12 tion of recommendations under this section.

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

17 (b) ADVISORY COMMITTEE MEMBERS.—

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

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

10 (c) CLERICAL AMENDMENT.—The table of contents
11 in section 1(b) of the Homeland Security Act of 2002 is
12 amended by inserting after the item relating to section
13 1616 the following new items:

 “Subtitle C—Surface Transportation Security

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

14 **SEC. 3. TECHNOLOGY INVESTMENT PLAN.**

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

18 “(h) ADDITIONAL UPDATE REQUIREMENTS.—Up-
19 dates and reports required pursuant to subsection (g)
20 shall—

21 “(1) be prepared in consultation with individ-
22 uals and entity specified in subsection (b), as well as
23 the Surface Transportation Security Advisory Com-

1 mittee established by the Administrator pursuant to
2 section 1621;

3 “(2) include information relating to technology
4 investments by the Transportation Security Admin-
5 istration and the private sector that the Department
6 supports with research, development, testing, and
7 evaluation for aviation, air cargo, and surface trans-
8 portation security; and

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

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

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