

SURFACE TRANSPORTATION SECURITY AND
 TECHNOLOGY ACCOUNTABILITY ACT OF 2018

MARCH 19, 2018.—Committed to the Committee of the Whole House on the State
 of the Union and ordered to be printed

Mr. McCAUL, from the Committee on Homeland Security,
 submitted the following

R E P O R T

[To accompany H.R. 5081]

The Committee on Homeland Security, to whom was referred the bill (H.R. 5081) 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, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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PURPOSE AND SUMMARY

The purpose of H.R. 5081, the Surface Transportation Security and Technology Accountability Act of 2018, is to prioritize the Transportation Security Administration's (TSA) responsibility to secure surface transportation systems and bring accountability to its technology investments. This bill establishes a Surface Transportation Security Advisory Committee within TSA to provide stakeholders and the public the opportunity to coordinate with the agency and comment on policy and pending regulations. It also amends reporting requirements for biennial updates to TSA's Strategic Five-Year Technology Investment Plan by requiring the Administrator to: consult with the Surface Transportation Security Advisory Committee, include information related to technology investments for aviation, air cargo, and surface transportation security, and include a classified addendum to report transportation security risks and capability gaps.

BACKGROUND AND NEED FOR LEGISLATION

The Committee has seen a significant positive impact from the establishment of the Aviation Security Advisory Committee for TSA to receive valuable input from stakeholders across the aviation sector. In establishing a similar entity for the surface transportation environment, the Committee hopes to create critical lines of communication on security-related issues among surface transportation stakeholders and the Administrator. The Committee recognizes that the surface transportation sector is multi-modal and different from the aviation sector, but like the aviation sector, it has government and sector coordinating councils to foster collaboration. The Committee also believes that the advisory committee established by this legislation can serve a valuable role in raising awareness within TSA of surface transportation security issues and challenges, and can be a critical help to the Administrator in determining policies and strategies aimed at protecting surface transportation systems. The Committee in no way intends to direct policy-making authority away from the Administrator or other relevant government entities for the surface transportation sector, but desires to implement a model similar to that of the Aviation Security Advisory Committee.

The Homeland Security Act of 2002 (Pub. L. 107-296) mandated that the TSA Administrator develop a Five-Year Technology Investment Plan and submit an update of the Plan biennially to Congress. The purpose of the Plan is to communicate TSA's framework for technology investments and outline transportation security risks and associated capability gaps that would be best addressed by security-related technology. However, both the Plan, which was published in August 2015, and the first Biennial Refresh, which was published in December 2017, focus exclusively on aviation investments and neglect investments related to surface transportation or air cargo security.

While TSA is responsible for securing all of America's transportation systems, the agency serves in a regulatory and oversight capacity with respect to surface transportation and air cargo. As such, TSA does not procure security-related technology for these sectors. Rather, TSA's investments related to surface transpor-

tation and air cargo support the research, development, testing, and evaluation of security-related technology. These investments do not appear in the Plan or Biennial Refresh because TSA interprets the statute very narrowly and thus equates “investment” with “procurement.” However, this interpretation does not accurately reflect the broad range of TSA’s responsibilities or Congress’s statutory intent. Consequently, this bill clarifies the meaning of “investments” to include research, development, testing, and evaluation, and requires TSA to incorporate investments related to surface transportation and air cargo in future Biennial Refreshes.

HEARINGS

While no hearing was held on H.R. 5081, the Committee was informed by the following hearings:

114th Congress

On September 17, 2015, the Subcommittee on Transportation Security and the Subcommittee on Counterterrorism and Intelligence held a joint hearing entitled, “Safeguarding our Nation’s Surface Transportation Systems Against Evolving Terrorist Threats.” The Subcommittees received testimony from Mr. Eddie Mayenschein, Assistant Administrator, Office of Security Policy and Industry Engagement, Transportation Security Administration, U.S. Department of Homeland Security; Ms. Jennifer Grover, Director, Transportation Security and Coast Guard Issues, Homeland Security and Justice Team, U.S. Government Accountability Office; Mr. Raymond Diaz, Director of Security, Metropolitan Transportation Authority (New York); and Ms. Polly Hanson, Chief of Police, National Railroad Passenger Corporation (Amtrak).

115th Congress

On February 2, 2017, the Subcommittee on Transportation and Protective Security held a hearing entitled, “The Future of the Transportation Security Administration.” The Subcommittee received testimony from Mr. Roger Dow, Chief Executive Officer, U.S. Travel Association; Ms. Nina E. Brooks, Head of Security, Airports Council International; and Mr. J. David Cox, National President, American Federation of Government Employees.

On November 8, 2017, the Full Committee held a hearing entitled, “Preventing the Next Attack: TSA’s Role in Keeping Our Transportation Systems Secure.” The Committee received testimony from The Honorable David P. Pekoske, Administrator, Transportation Security Administration, U.S. Department of Homeland Security.

On November 28, 2017, the Subcommittee on Transportation and Protective Security held a field hearing in Trenton, New Jersey, entitled, “Securing Public Areas of Transportation Systems: Stakeholder Perspectives.” The Subcommittee received testimony from Mr. Charles Cunningham, Director, Homeland Security and Emergency Management, Delaware River Port Authority (DRPA) Public Safety / PATCO; Mr. Thomas J. Nestel, III, Chief, Transit Police, Southeastern Pennsylvania Transportation Authority (SEPTA); Mr. Douglas Lemanowicz, Lieutenant, Special Operations Section, New Jersey State Police, State of New Jersey; and Mr. Christopher Trucillo, Chief, Transit Police, New Jersey Transit.

On January 18, 2018, the Subcommittee on Transportation and Protective Security held a hearing entitled, “Innovation at TSA: Examining Threat Mitigation Through Technology Acquisitions Reform.” The Subcommittee received testimony from The Honorable David P. Pekoske, Administrator, Transportation Security Administration, U.S. Department of Homeland Security.

On January 30, 2018, the Subcommittee on Transportation and Protective Security and the Subcommittee on Emergency Preparedness, Response, and Communications held a joint hearing entitled, “Securing our Surface Transportation Systems: Examining the Department of Homeland Security’s Role in Surface Transportation Technologies.” The Subcommittees received testimony from Ms. Sonya Proctor, Director of Surface Division, Office of Security Policy and Industry Engagement, Transportation Security Administration; Mr. Robert Pryor, Director of Intermodal Division, Office of Requirements and Capabilities Analysis, Transportation Security Administration; Mr. Donald E. Roberts, Program Manager of Explosive Threat Detection, Explosives Division, Homeland Security Advanced Research Projects Agency, Science and Technology Directorate, U.S. Department of Homeland Security; and Mr. Brian Michael Jenkins, Director, National Transportation Security Center of Excellence, Mineta Transportation Institute.

COMMITTEE CONSIDERATION

The Committee met on March 7, 2018, to consider H.R. 5081, and ordered the measure to be reported to the House with a favorable recommendation, without amendment, by unanimous consent.

COMMITTEE VOTES

Clause 3(b) of Rule XIII of the Rules of the House of Representatives requires the Committee to list the recorded votes on the motion to report legislation and amendments thereto.

No recorded votes were requested during consideration of H.R. 5081.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of Rule XIII of the Rules of the House of Representatives, the Committee has held oversight hearings and made findings that are reflected in this report.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of Rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 5081, the Surface Transportation Security and Technology Accountability Act of 2018, would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of Rule XIII of the Rules of the House of Representatives, a cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974 was not made available to the Committee in time for

the filing of this report. The Chairman of the Committee shall cause such estimate to be printed in the *Congressional Record* upon its receipt by the Committee.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of Rule XIII of the Rules of the House of Representatives, H.R. 5081 contains the following general performance goals and objectives, including outcome related goals and objectives authorized.

This legislation directs the Administrator of the Transportation Security Administration to utilize the range of expertise represented in the Surface Transportation Security Advisory Committee to inform future policy decisions and security technology investments by the Transportation Security Administration.

DUPLICATIVE FEDERAL PROGRAMS

Pursuant to clause 3(c) of Rule XIII, the Committee finds that H.R. 5081 does not contain any provision that establishes or reauthorizes a program known to be duplicative of another Federal program.

CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

In compliance with Rule XXI of the Rules of the House of Representatives, this bill, as reported, contains no congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of the Rule XXI.

FEDERAL MANDATES STATEMENT

An estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act was not made available to the Committee in time for the filing of this report. The Chairman of the Committee shall cause such estimate to be printed in the *Congressional Record* upon its receipt by the Committee.

PREEMPTION CLARIFICATION

In compliance with section 423 of the Congressional Budget Act of 1974, requiring the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt State, local, or Tribal law, the Committee finds that H.R. 5081 does not preempt any State, local, or Tribal law.

DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that H.R. 5081 would require no directed rule makings.

ADVISORY COMMITTEE STATEMENT

The Federal Advisory Committee Act does not apply to the Surface Transportation Security Advisory Committee as established by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short Title.

This section provides that this bill may be cited as the “Surface Transportation Security and Technology Accountability Act of 2018”.

Sec. 2. Surface Transportation Security Advisory Committee.

This section requires the Administrator of the Transportation Security Administration (Administrator) to establish a Surface Transportation Security Advisory Committee (Advisory Committee) to aid in the development, refinement, and implementation of policies and initiatives pertaining to surface transportation security. The Advisory Committee will include representatives from the Transportation Security Administration (TSA) and the Department of Transportation, as well as stakeholders, labor organizations, law enforcement, first responders, and security experts representing each mode of surface transportation.

The Advisory Committee is required to meet at least semiannually and may convene additional meetings as necessary. Unless otherwise prohibited by Federal law, minutes of the meetings of the Advisory Committee shall be published online. Additionally, the Advisory Committee shall periodically submit to the Administrator reports on matters requested by the Administrator or by a majority of the members of the Advisory Committee. Furthermore, the Advisory Committee shall submit to the Administrator and to the appropriate Congressional Committees an annual report that provides information on the activities, findings, and recommendations of the Advisory Committee during the preceding year. The Administrator is required to publish a public version of the report.

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. Not later than 90 days after the date that the Administrator receives a recommendation, the Administrator shall submit written feedback on such recommendation to the Advisory Committee. Additionally, not later than 30 days after the Administrator submits feedback to the Advisory Committee, the Administrator shall notify the appropriate Congressional Committees of such feedback. Not later than 90 days after the date the Administrator receives a recommendation from the Advisory Committee that he or she agrees with, and quarterly thereafter until such recommendation is fully implemented, the Administrator shall submit to the appropriate Congressional Committees a report or post an update on the status of such recommendation online. The Federal Advisory Committee Act (5 U.S.C. App.) does not apply to the Advisory Committee.

Sec. 3. Technology Investment Plan.

This section requires the Administrator to consult with the Advisory Committee when preparing updates to the 5-Year Technology Investment Plan, and include information related to technology investments by TSA and the private sector that the Department of Homeland Security supports with research, development, testing, and evaluation for aviation, air cargo, and surface transportation security. The Administrator is also required, to the extent practicable, to include a classified addendum to report sensitive transportation security risks and associated capability gaps that would be best addressed by security-technology.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

HOMELAND SECURITY ACT OF 2002

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Homeland Security Act of 2002”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

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TITLE XVI—TRANSPORTATION SECURITY

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Subtitle C—Surface Transportation Security

Sec. 1621. Surface Transportation Security Advisory Committee.

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**TITLE XVI—TRANSPORTATION
SECURITY**

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**Subtitle B—Transportation Security
Administration Acquisition Improvements**

SEC. 1611. 5-YEAR TECHNOLOGY INVESTMENT PLAN.

(a) **IN GENERAL.**—The Administrator shall—

(1) not later than 180 days after the date of the enactment of the Transportation Security Acquisition Reform Act, develop and submit to Congress a strategic 5-year technology investment plan, that may include a classified addendum to report

sensitive transportation security risks, technology vulnerabilities, or other sensitive security information; and

(2) to the extent possible, publish the Plan in an unclassified format in the public domain.

(b) CONSULTATION.—The Administrator shall develop the Plan in consultation with—

- (1) the Under Secretary for Management;
- (2) the Under Secretary for Science and Technology;
- (3) the Chief Information Officer; and
- (4) the aviation industry stakeholder advisory committee established by the Administrator.

(c) APPROVAL.—The Administrator may not publish the Plan under subsection (a)(2) until it has been approved by the Secretary.

(d) CONTENTS OF PLAN.—The Plan shall include—

- (1) an analysis of transportation security risks and the associated capability gaps that would be best addressed by security-related technology, including consideration of the most recent quadrennial homeland security review under section 707;
- (2) a set of security-related technology acquisition needs that—

(A) is prioritized based on risk and associated capability gaps identified under paragraph (1); and

(B) includes planned technology programs and projects with defined objectives, goals, timelines, and measures;

(3) an analysis of current and forecast trends in domestic and international passenger travel;

(4) an identification of currently deployed security-related technologies that are at or near the end of their lifecycles;

(5) an identification of test, evaluation, modeling, and simulation capabilities, including target methodologies, rationales, and timelines necessary to support the acquisition of the security-related technologies expected to meet the needs under paragraph (2);

(6) an identification of opportunities for public-private partnerships, small and disadvantaged company participation, intragovernment collaboration, university centers of excellence, and national laboratory technology transfer;

(7) an identification of the Administration's acquisition workforce needs for the management of planned security-related technology acquisitions, including consideration of leveraging acquisition expertise of other Federal agencies;

(8) an identification of the security resources, including information security resources, that will be required to protect security-related technology from physical or cyber theft, diversion, sabotage, or attack;

(9) an identification of initiatives to streamline the Administration's acquisition process and provide greater predictability and clarity to small, medium, and large businesses, including the timeline for testing and evaluation;

(10) an assessment of the impact to commercial aviation passengers;

(11) a strategy for consulting airport management, air carrier representatives, and Federal security directors whenever an acquisition will lead to the removal of equipment at airports, and how the strategy for consulting with such officials

of the relevant airports will address potential negative impacts on commercial passengers or airport operations; and

(12) in consultation with the National Institutes of Standards and Technology, an identification of security-related technology interface standards, in existence or if implemented, that could promote more interoperable passenger, baggage, and cargo screening systems.

(e) LEVERAGING THE PRIVATE SECTOR.—To the extent possible, and in a manner that is consistent with fair and equitable practices, the Plan shall—

(1) leverage emerging technology trends and research and development investment trends within the public and private sectors;

(2) incorporate private sector input, including from the aviation industry stakeholder advisory committee established by the Administrator, through requests for information, industry days, and other innovative means consistent with the Federal Acquisition Regulation; and

(3) in consultation with the Under Secretary for Science and Technology, identify technologies in existence or in development that, with or without adaptation, are expected to be suitable to meeting mission needs.

(f) DISCLOSURE.—The Administrator shall include with the Plan a list of nongovernment persons that contributed to the writing of the Plan.

(g) UPDATE AND REPORT.—Beginning 2 years after the date the Plan is submitted to Congress under subsection (a), and biennially thereafter, the Administrator shall submit to Congress—

(1) an update of the Plan; and

(2) a report on the extent to which each security-related technology acquired by the Administration since the last issuance or update of the Plan is consistent with the planned technology programs and projects identified under subsection (d)(2) for that security-related technology.

(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).

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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 vot-

ing 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 sensitive 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 Committee shall meet at least semiannually in person or through web conferencing, and may convene 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 Register;
- (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 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 sensitive 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 subject matter experts with expertise related to the jurisdiction of the Advisory Committee.

(d) *REPORTS.*—

(1) *PERIODIC REPORTS.*—The Advisory Committee 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 Committee 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 information on the activities, findings, and recommendations of the Advisory Committee during 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 section 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 implementation of recommendations under this section.

(f) **NONAPPLICABILITY OF FACAs.**—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Advisory Committee or any subcommittee established under this section.

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