

Calendar No. 528

116TH CONGRESS
2D SESSION

S. 4024

[Report No. 116–265]

To establish in the Cybersecurity and Infrastructure Security Agency of the Department of Homeland Security a Cybersecurity Advisory Committee.

IN THE SENATE OF THE UNITED STATES

JUNE 22, 2020

Mr. PERDUE (for himself and Ms. SINEMA) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

SEPTEMBER 9, 2020

Reported by Mr. JOHNSON, with an amendment

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

A BILL

To establish in the Cybersecurity and Infrastructure Security Agency of the Department of Homeland Security a Cybersecurity Advisory Committee.

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 “Cybersecurity Advisory~~
5 ~~Committee Authorization Act of 2020”.~~

1 **SEC. 2. CYBERSECURITY ADVISORY COMMITTEE.**

2 (a) IN GENERAL.—Subtitle A of title XXII of the
3 Homeland Security Act of 2002 (6 U.S.C. 651 et seq.)
4 is amended by adding at the end the following:

5 **“SEC. 2215. CYBERSECURITY ADVISORY COMMITTEE.**

6 “(a) ESTABLISHMENT.—The Secretary shall estab-
7 lish within the Agency a Cybersecurity Advisory Com-
8 mittee (referred to in this section as the ‘Advisory Com-
9 mittee’).

10 “(b) DUTIES.—

11 “(1) IN GENERAL.—The Advisory Committee
12 may advise, consult with, report to, and make rec-
13 ommendations to the Director, as appropriate, on
14 the development, refinement, and implementation of
15 policies, programs, planning, and training pertaining
16 to the cybersecurity mission of the Agency.

17 “(2) RECOMMENDATIONS.—

18 “(A) IN GENERAL.—The Advisory Com-
19 mittee shall develop, at the request of the Di-
20 rector, recommendations for improvements to
21 advance the cybersecurity mission of the Agency
22 and strengthen the cybersecurity of the United
23 States.

24 “(B) RECOMMENDATIONS OF SUBCOMMIT-
25 TEES.—Recommendations agreed upon by sub-
26 committees established under subsection (d) for

1 any year shall be approved by the Advisory
2 Committee before the Advisory Committee sub-
3 mits to the Director the annual report under
4 paragraph (4) for that year.

5 “(3) PERIODIC REPORTS.—The Advisory Com-
6 mittee shall periodically submit to the Director—

7 “(A) reports on matters identified by the
8 Director; and

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

12 “(4) ANNUAL REPORT.—

13 “(A) IN GENERAL.—The Advisory Com-
14 mittee shall submit to the Director an annual
15 report providing information on the activities,
16 findings, and recommendations of the Advisory
17 Committee, including its subcommittees, for the
18 preceding year.

19 “(B) PUBLICATION.—Not later than 180
20 days after the date on which the Director re-
21 ceives an annual report for a year under sub-
22 paragraph (A), the Director shall publish a
23 public version of the report describing the ac-
24 tivities of the Advisory Committee and such re-
25 lated matters as would be informative to the

1 public during that year, consistent with section
2 552(b) of title 5, United States Code.

3 ~~“(5) FEEDBACK.—~~Not later than 90 days after
4 receiving any recommendation submitted by the Ad-
5 visory Committee under paragraph (2), (3), or (4),
6 the Director shall respond in writing to the Advisory
7 Committee with feedback on the recommendation.
8 Such a response shall include—

9 ~~“(A) with respect to any recommendation~~
10 ~~with which the Director concurs, an action plan~~
11 ~~to implement the recommendation; and~~

12 ~~“(B) with respect to any recommendation~~
13 ~~with which the Director does not concur, a jus-~~
14 ~~tification for why the Director does not plan to~~
15 ~~implement the recommendation.~~

16 ~~“(6) CONGRESSIONAL NOTIFICATION.—~~Not less
17 frequently than once per year after the date of en-
18 actment of this section, the Director shall provide to
19 the Committee on Homeland Security and Govern-
20 mental Affairs and the Committee on Appropriations
21 of the Senate and the Committee on Homeland Se-
22 curity and the Committee on Appropriations of the
23 House of Representatives a briefing on feedback
24 from the Advisory Committee.

25 ~~“(c) MEMBERSHIP.—~~

1 “(1) APPOINTMENT.—

2 “(A) IN GENERAL.—Not later than 180
3 days after the date of enactment of the Cyber-
4 security Advisory Committee Authorization Act
5 of 2020, the Director shall appoint the mem-
6 bers of the Advisory Committee.

7 “(B) COMPOSITION.—The membership of
8 the Advisory Committee shall consist of not
9 more than 35 individuals.

10 “(C) REPRESENTATION.—

11 “(i) IN GENERAL.—The membership
12 of the Advisory Committee shall be geo-
13 graphically balanced and shall include rep-
14 resentatives of State and local governments
15 and of a broad range of industries, which
16 may include the following:

17 “(I) Defense.

18 “(II) Education.

19 “(III) Financial services and in-
20 surance.

21 “(IV) Healthcare.

22 “(V) Manufacturing.

23 “(VI) Media and entertainment.

24 “(VII) Chemicals.

25 “(VIII) Retail.

1 ~~“(IX) Transportation.~~
2 ~~“(X) Energy.~~
3 ~~“(XI) Information Technology.~~
4 ~~“(XII) Communications.~~
5 ~~“(XIII) Other relevant fields~~
6 ~~identified by the Director.~~

7 ~~“(ii) PROHIBITION.—Not more than 3~~
8 ~~members may represent any 1 category~~
9 ~~under clause (i).~~

10 ~~“(2) TERM OF OFFICE.—~~

11 ~~“(A) TERMS.—The term of each member~~
12 ~~of the Advisory Committee shall be 2 years, ex-~~
13 ~~cept that a member may continue to serve until~~
14 ~~a successor is appointed.~~

15 ~~“(B) REMOVAL.—The Director may review~~
16 ~~the participation of a member of the Advisory~~
17 ~~Committee and remove such member any time~~
18 ~~at the discretion of the Director.~~

19 ~~“(C) REAPPOINTMENT.—A member of the~~
20 ~~Advisory Committee may be reappointed for an~~
21 ~~unlimited number of terms.~~

22 ~~“(3) PROHIBITION ON COMPENSATION.—The~~
23 ~~members of the Advisory Committee may not receive~~
24 ~~pay or benefits from the United States Government~~

1 by reason of their service on the Advisory Com-
 2 mittee.

3 ~~“(4) MEETINGS.—~~

4 ~~“(A) IN GENERAL.—The Director shall re-~~
 5 ~~quire the Advisory Committee to meet not less~~
 6 ~~frequently than semiannually, and may convene~~
 7 ~~additional meetings as necessary.~~

8 ~~“(B) PUBLIC MEETINGS.—At least one of~~
 9 ~~the meetings referred to in subparagraph (A)~~
 10 ~~shall be open to the public.~~

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

14 ~~“(5) MEMBER ACCESS TO CLASSIFIED INFOR-~~
 15 ~~MATION.—~~

16 ~~“(A) IN GENERAL.—Not later than 60~~
 17 ~~days after the date on which a member is first~~
 18 ~~appointed to the Advisory Committee and be-~~
 19 ~~fore the member is granted access to any classi-~~
 20 ~~fied information, the Director shall determine if~~
 21 ~~the member should be restricted from review-~~
 22 ~~ing, discussing, or possessing classified informa-~~
 23 ~~tion.~~

24 ~~“(B) ACCESS.—Access to classified mate-~~
 25 ~~rials shall be managed in accordance with Exec-~~

1 utive Order No. 13526 of December 29, 2009
 2 (75 Fed. Reg. 707), or any subsequent cor-
 3 responding Executive Order.

4 “~~(C)~~ PROTECTIONS.—A member of the
 5 Advisory Committee shall protect all classified
 6 information in accordance with the applicable
 7 requirements for the particular level of classi-
 8 fication of such information.

9 “~~(6)~~ CHAIRPERSON.—The Advisory Committee
 10 shall select, from among the members of the Advi-
 11 sory Committee—

12 “~~(A)~~ a member to serve as chairperson of
 13 the Advisory Committee; and

14 “~~(B)~~ a member to serve as chairperson of
 15 each subcommittee of the Advisory Committee
 16 established under subsection (d).

17 “~~(d)~~ SUBCOMMITTEES.—

18 “~~(1)~~ IN GENERAL.—The Director shall establish
 19 subcommittees within the Advisory Committee to ad-
 20 dress cybersecurity issues, which may include the
 21 following:

22 “~~(A)~~ Information exchange.

23 “~~(B)~~ Critical infrastructure.

24 “~~(C)~~ Risk management.

25 “~~(D)~~ Public and private partnerships.

1 ~~“(2) MEETINGS AND REPORTING.—Each sub-~~
2 ~~committee shall meet not less frequently than semi-~~
3 ~~annually, and submit to the Advisory Committee for~~
4 ~~inclusion in the annual report required under sub-~~
5 ~~section (b)(4) information, including activities, find-~~
6 ~~ings, and recommendations, regarding subject mat-~~
7 ~~ter considered by the subcommittee.~~

8 ~~“(3) SUBJECT MATTER EXPERTS.—The chair of~~
9 ~~the Advisory Committee shall appoint members to~~
10 ~~subcommittees and shall ensure that each member~~
11 ~~appointed to a subcommittee has subject matter ex-~~
12 ~~pertise relevant to the subject matter of the sub-~~
13 ~~committee.~~

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

17 ~~(b) CLERICAL AMENDMENT.—The table of contents~~
18 ~~in section 1(b) of the Homeland Security Act of 2002~~
19 ~~(Public Law 107–296; 116 Stat. 2135) is amended by in-~~
20 ~~serting after the item relating to section 2214 the fol-~~
21 ~~lowing:~~

~~“2215. Cybersecurity Advisory Committee.”.~~

22 ~~**SECTION 1. SHORT TITLE.**~~

23 ~~*This Act may be cited as the “Cybersecurity Advisory*~~
24 ~~*Committee Authorization Act of 2020”.*~~

1 **SEC. 2. CYBERSECURITY ADVISORY COMMITTEE.**

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8 *ferred to in this section as the ‘Advisory Committee’).*

9 “(b) *DUTIES.*—

10 “(1) *IN GENERAL.*—*The Advisory Committee*
11 *shall advise, consult with, report to, and make rec-*
12 *ommendations to the Director, as appropriate, on the*
13 *development, refinement, and implementation of poli-*
14 *cies, programs, planning, and training pertaining to*
15 *the cybersecurity mission of the Agency.*

16 “(2) *RECOMMENDATIONS.*—

17 “(A) *IN GENERAL.*—*The Advisory Com-*
18 *mittee shall develop, at the request of the Direc-*
19 *tor, recommendations for improvements to ad-*
20 *vance the cybersecurity mission of the Agency*
21 *and strengthen the cybersecurity of the United*
22 *States.*

23 “(B) *RECOMMENDATIONS OF SUBCOMMIT-*
24 *TEES.*—*Recommendations agreed upon by sub-*
25 *committees established under subsection (d) for*
26 *any year shall be approved by the Advisory*

1 *Committee before the Advisory Committee sub-*
2 *mits to the Director the annual report under*
3 *paragraph (4) for that year.*

4 “(3) *PERIODIC REPORTS.*—*The Advisory Com-*
5 *mittee shall periodically submit to the Director—*

6 “(A) *reports on matters identified by the*
7 *Director; and*

8 “(B) *reports on other matters identified by*
9 *a majority of the members of the Advisory Com-*
10 *mittee.*

11 “(4) *ANNUAL REPORT.*—

12 “(A) *IN GENERAL.*—*The Advisory Com-*
13 *mittee shall submit to the Director an annual re-*
14 *port providing information on the activities,*
15 *findings, and recommendations of the Advisory*
16 *Committee, including its subcommittees, for the*
17 *preceding year.*

18 “(B) *PUBLICATION.*—*Not later than 180*
19 *days after the date on which the Director receives*
20 *an annual report for a year under subparagraph*
21 *(A), the Director shall publish a public version*
22 *of the report describing the activities of the Advi-*
23 *sory Committee and such related matters as*
24 *would be informative to the public during that*

1 *year, consistent with section 552(b) of title 5,*
2 *United States Code.*

3 “(5) *FEEDBACK.*—*Not later than 90 days after*
4 *receiving any recommendation submitted by the Advi-*
5 *sory Committee under paragraph (2), (3), or (4), the*
6 *Director shall respond in writing to the Advisory*
7 *Committee with feedback on the recommendation.*
8 *Such a response shall include—*

9 “(A) *with respect to any recommendation*
10 *with which the Director concurs, an action plan*
11 *to implement the recommendation; and*

12 “(B) *with respect to any recommendation*
13 *with which the Director does not concur, a jus-*
14 *tification for why the Director does not plan to*
15 *implement the recommendation.*

16 “(6) *CONGRESSIONAL NOTIFICATION.*—*Not less*
17 *frequently than once per year after the date of enact-*
18 *ment of this section, the Director shall provide to the*
19 *Committee on Homeland Security and Governmental*
20 *Affairs and the Committee on Appropriations of the*
21 *Senate and the Committee on Homeland Security and*
22 *the Committee on Appropriations of the House of*
23 *Representatives a briefing on feedback from the Advi-*
24 *sory Committee.*

1 “(7) *GOVERNANCE RULES.*—*The Director shall*
2 *establish rules for the structure and governance of the*
3 *Advisory Committee and all subcommittees estab-*
4 *lished under subsection (d).*

5 “(c) *MEMBERSHIP.*—

6 “(1) *APPOINTMENT.*—

7 “(A) *IN GENERAL.*—*Not later than 180*
8 *days after the date of enactment of the Cyberse-*
9 *curity Advisory Committee Authorization Act of*
10 *2020, the Director shall appoint the members of*
11 *the Advisory Committee.*

12 “(B) *COMPOSITION.*—*The membership of*
13 *the Advisory Committee shall consist of not more*
14 *than 35 individuals.*

15 “(C) *REPRESENTATION.*—

16 “(i) *IN GENERAL.*—*The membership of*
17 *the Advisory Committee shall—*

18 “(I) *consist of subject matter ex-*
19 *perts;*

20 “(II) *be geographically balanced;*
21 *and*

22 “(III) *include representatives of*
23 *State, local, and Tribal governments*
24 *and of a broad range of industries,*
25 *which may include the following:*

- 1 “(aa) *Defense.*
- 2 “(bb) *Education.*
- 3 “(cc) *Financial services and*
- 4 *insurance.*
- 5 “(dd) *Healthcare.*
- 6 “(ee) *Manufacturing.*
- 7 “(ff) *Media and entertain-*
- 8 *ment.*
- 9 “(gg) *Chemicals.*
- 10 “(hh) *Retail.*
- 11 “(ii) *Transportation.*
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- 13 “(kk) *Information Tech-*
- 14 *nology.*
- 15 “(ll) *Communications.*
- 16 “(mm) *Other relevant fields*
- 17 *identified by the Director.*
- 18 “(ii) *PROHIBITION.—Not less than 1*
- 19 *member nor more than 3 members may rep-*
- 20 *resent any 1 category under clause (i)(III).*
- 21 “(iii) *PUBLICATION OF MEMBERSHIP*
- 22 *LIST.—The Advisory Committee shall pub-*
- 23 *lish its membership list on a publicly avail-*
- 24 *able website not less than once per fiscal*

1 *year and shall update the membership list*
2 *as changes occur.*

3 “(2) *TERM OF OFFICE.*—

4 “(A) *TERMS.*—*The term of each member of*
5 *the Advisory Committee shall be 2 years, except*
6 *that a member may continue to serve until a*
7 *successor is appointed.*

8 “(B) *REMOVAL.*—*The Director may review*
9 *the participation of a member of the Advisory*
10 *Committee and remove such member any time at*
11 *the discretion of the Director.*

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13 *Advisory Committee may be reappointed for an*
14 *unlimited number of terms.*

15 “(3) *PROHIBITION ON COMPENSATION.*—*The*
16 *members of the Advisory Committee may not receive*
17 *pay or benefits from the United States Government by*
18 *reason of their service on the Advisory Committee.*

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20 “(A) *IN GENERAL.*—*The Director shall re-*
21 *quire the Advisory Committee to meet not less*
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23 *additional meetings as necessary.*

1 “(B) *PUBLIC MEETINGS.*—*At least one of*
2 *the meetings referred to in subparagraph (A)*
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4 “(C) *ATTENDANCE.*—*The Advisory Com-*
5 *mittee shall maintain a record of the persons*
6 *present at each meeting.*

7 “(5) *MEMBER ACCESS TO CLASSIFIED INFORMA-*
8 *TION.*—

9 “(A) *IN GENERAL.*—*Not later than 60 days*
10 *after the date on which a member is first ap-*
11 *pointed to the Advisory Committee and before*
12 *the member is granted access to any classified*
13 *information, the Director shall determine, for the*
14 *purposes of the Advisory Committee, if the mem-*
15 *ber should be restricted from reviewing, dis-*
16 *cussing, or possessing classified information.*

17 “(B) *ACCESS.*—*Access to classified mate-*
18 *rials shall be managed in accordance with Exec-*
19 *utive Order No. 13526 of December 29, 2009 (75*
20 *Fed. Reg. 707), or any subsequent corresponding*
21 *Executive Order.*

22 “(C) *PROTECTIONS.*—*A member of the Ad-*
23 *visory Committee shall protect all classified in-*
24 *formation in accordance with the applicable re-*

1 *quirements for the particular level of classifica-*
2 *tion of such information.*

3 “(D) *RULE OF CONSTRUCTION.*—*Nothing in*
4 *this paragraph shall be construed to affect the se-*
5 *curity clearance of a member of the Advisory*
6 *Committee or the authority of a Federal agency*
7 *to provide a member of the Advisory Committee*
8 *access to classified information.*

9 “(6) *CHAIRPERSON.*—*The Advisory Committee*
10 *shall select, from among the members of the Advisory*
11 *Committee—*

12 “(A) *a member to serve as chairperson of*
13 *the Advisory Committee; and*

14 “(B) *a member to serve as chairperson of*
15 *each subcommittee of the Advisory Committee es-*
16 *tablished under subsection (d).*

17 “(d) *SUBCOMMITTEES.*—

18 “(1) *IN GENERAL.*—*The Director shall establish*
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20 *dress cybersecurity issues, which may include the fol-*
21 *lowing:*

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1 “(2) *MEETINGS AND REPORTING.*—*Each sub-*
2 *committee shall meet not less frequently than semi-*
3 *annually, and submit to the Advisory Committee for*
4 *inclusion in the annual report required under sub-*
5 *section (b)(4) information, including activities, find-*
6 *ings, and recommendations, regarding subject matter*
7 *considered by the subcommittee.*

8 “(3) *SUBJECT MATTER EXPERTS.*—*The chair-*
9 *person of the Advisory Committee shall appoint mem-*
10 *bers to subcommittees and shall ensure that each*
11 *member appointed to a subcommittee has subject mat-*
12 *ter expertise relevant to the subject matter of the sub-*
13 *committee.”.*

14 “(b) *CLERICAL AMENDMENT.*—*The table of contents in*
15 *section 1(b) of the Homeland Security Act of 2002 (Public*
16 *Law 107–296; 116 Stat. 2135) is amended by inserting*
17 *after the item relating to section 2214 the following:*

 “*Sec. 2215. Cybersecurity Advisory Committee.*”.

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