

National Transportation Safety Board

Office of the Chair

Washington, DC 20594



March 1, 2022

The Honorable Nancy Pelosi
Speaker
US House of Representatives
H-232, The Capitol
Washington, DC 20515

Dear Speaker Pelosi:

On behalf of the National Transportation Safety Board (NTSB), I am submitting the enclosed draft bill to reauthorize the NTSB for the next 5 years, through fiscal year (FY) 2027, and request that you introduce it for consideration by the Congress. The NTSB's current authorization is set to expire at the end of FY 2022.

As you know, the NTSB is an independent federal agency charged by Congress with investigating every civil aviation accident in the United States and significant events in other modes of transportation—railroad, highways and transit, marine, pipeline, and commercial space. We determine the probable cause of the accidents and crashes we investigate, and issue safety recommendations aimed at preventing future occurrences. In addition, we carry out special studies concerning transportation safety and coordinate the resources of the federal government and other organizations to assist victims and their family members impacted by transportation disasters. We also conduct safety studies focused on broader safety questions and topic areas. Additionally, we serve as the appellate authority for enforcement actions involving aviation and mariner certificates issued by the Federal Aviation Administration (FAA) and the United States Coast Guard, and we also adjudicate appeals of civil penalty actions taken by the FAA.

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The draft bill, if implemented, will improve our ability to carry out our critical safety mission now and in the future; to recruit, retain, and develop a highly qualified, specialized, diverse, and inclusive workforce; to prepare the agency for investigations involving emerging transportation technologies and systems; and to meet existing needs and future challenges through data-driven decision-making and cross-office risk management.

The bill also includes measures to enhance accountability for implementing NTSB safety recommendations and improves our processes and products. Examples of these improvements include the development and implementation of a strategic human capital plan and improving the timeliness of investigative reports. It also enhances our support for families of those impacted by accidents and crashes; upholds our commitment to a drug-free workplace; and strengthens diversity, equity, inclusion, and accessibility in the workplace.

The draft bill does not include language to clarify our existing authority to conduct safety investigations of certain commercial space launch and reentry accidents and mishaps because we are in the process of finalizing a rule requiring operators to report such events. However, I understand that a bipartisan bill similar to H.R 1562, the *Commercial Space Transportation Safety Act of 2019*, introduced in the 116th Congress, will soon be re-introduced. I look forward to continuing to work closely with Congress to support this legislation as a stand-alone bill or for inclusion in our reauthorization package.

I urge the Congress to give prompt and favorable consideration to this draft bill.

Sincerely,



Jennifer Homendy
Chair

Enclosure

National Transportation Safety Board

Office of the Chair

Washington, DC 20594



March 1, 2022

The Honorable Kamala Harris
President
US Senate
H-212, The Capitol
Washington, DC 20515

Dear Madam President:

On behalf of the National Transportation Safety Board (NTSB), I am submitting the enclosed draft bill to reauthorize the NTSB for the next 5 years, through fiscal year (FY) 2027, and request that you introduce it for consideration by the Congress. The NTSB's current authorization is set to expire at the end of FY 2022.

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Office of the Chair

Washington, DC 20594



March 1, 2022

The Honorable Maria Cantwell
Chair
Committee on Commerce, Science, and
Transportation
US Senate
512 Dirksen Senate Office Building
Washington, DC 20510

Dear Chair Cantwell:

On behalf of the National Transportation Safety Board (NTSB), I am submitting the enclosed draft bill to reauthorize the NTSB for the next 5 years, through fiscal year (FY) 2027, and request that you introduce it for consideration by the Congress. The NTSB's current authorization is set to expire at the end of FY 2022.

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Jennifer Homendy
Chair

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National Transportation Safety Board

Office of the Chair

Washington, DC 20594



March 1, 2022

The Honorable Roger F. Wicker
Ranking Member
Committee on Commerce, Science, and
Transportation
US Senate
425 Hart Senate Office Building
Washington, DC 20510

Dear Ranking Member Wicker:

On behalf of the National Transportation Safety Board (NTSB), I am submitting the enclosed draft bill to reauthorize the NTSB for the next 5 years, through fiscal year (FY) 2027, and request that you introduce it for consideration by the Congress. The NTSB's current authorization is set to expire at the end of FY 2022.

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National Transportation Safety Board

Office of the Chair

Washington, DC 20594



March 1, 2022

The Honorable Peter A. DeFazio
Chairman
Committee on Transportation and
Infrastructure
US House of Representatives
2134 Rayburn House Office Building
Washington, DC 20515

Dear Chairman DeFazio:

On behalf of the National Transportation Safety Board (NTSB), I am submitting the enclosed draft bill to reauthorize the NTSB for the next 5 years, through fiscal year (FY) 2027, and request that you introduce it for consideration by the Congress. The NTSB's current authorization is set to expire at the end of FY 2022.

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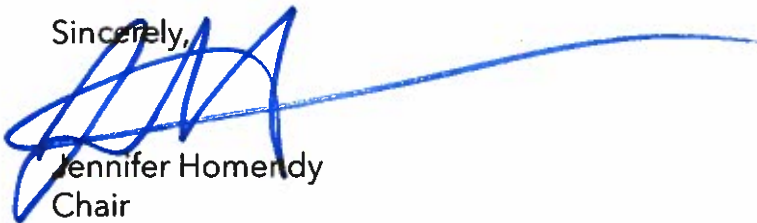
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Jennifer Homendy
Chair

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National Transportation Safety Board

Office of the Chair

Washington, DC 20594



March 1, 2022

The Honorable Sam Graves
Ranking Member
Committee on Transportation and
Infrastructure
US House of Representatives
2251 Rayburn House Office Building
Washington, DC 20515

Dear Ranking Member Graves:

On behalf of the National Transportation Safety Board (NTSB), I am submitting the enclosed draft bill to reauthorize the NTSB for the next 5 years, through fiscal year (FY) 2027, and request that you introduce it for consideration by the Congress. The NTSB's current authorization is set to expire at the end of FY 2022.

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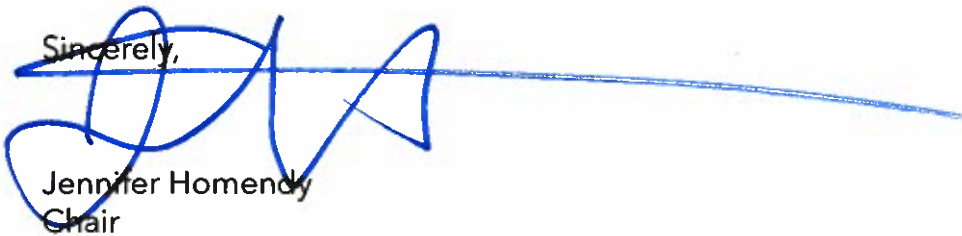
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1 Title: To amend title 49, United States Code, to authorize appropriations for the National
2 Transportation Safety Board for fiscal years 2023 through 2027, and for other purposes.
3
4

5 Be it enacted by the Senate and House of Representatives of the United States of America in
6 Congress assembled,

7 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS;**
8 **REFERENCES.**

9 (a) SHORT TITLE.—This Act may be cited as the “National Transportation Safety Board
10 Authorization Act of 2022”.

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

12 Sec. 1. Short title; table of contents; references.

13 **TITLE I – ENSURING READINESS FOR OUR MISSION**

14 Sec. 101. Authorization of appropriations.

15 Sec. 102. Acquiring mission-essential knowledge and skills.

16 Sec. 103. Strategic human capital plan.

17 Sec. 104. Workforce development.

18 Sec. 105. Senior Executive succession planning.

19 Sec. 106. Investigative authorities.

20 Sec. 107. Ensuring access to data.

21 Sec. 108. Technical corrections.

22 **TITLE II – ENHANCING ACCOUNTABILITY AND IMPROVING PROCESSES**
23 **AND PRODUCTS**

24 Sec. 201. Drug-Free workplace.

25 Sec. 202. Improving the delivery of family assistance.

26 Sec. 203. Updating civil penalty authority.

27 Sec. 204. Ensuring accountability for timeliness of reports.

28 Sec. 205. Implementing safety recommendations.

29 Sec. 206. Closed unacceptable recommendations.

30 **TITLE III – STRENGTHENING DIVERSITY, EQUITY, INCLUSION, AND**
31 **ACCESSIBILITY**

32 Sec. 301. Creating a diverse and inclusive workforce.

33 Sec. 302. Promoting diversity, equity, inclusion, and accessibility in the workforce.

34 Sec. 303. Enhancing transparency of equal employment opportunity programs.

1 Sec. 304. Accessibility in the workplace.

2 Sec. 305. Availability of products in languages other than English.

3 Sec. 306. References to Chairman and Vice Chairman.

4 (c) REFERENCES TO TITLE 49, UNITED STATES CODE.—Except as otherwise expressly
5 provided, wherever in this Act an amendment or repeal is expressed in terms of an amendment
6 to, or repeal of, a section or other provision, the reference shall be considered to be made to a
7 section or other provision of title 49, United States Code.

8 **TITLE I – ENSURING MISSION READINESS**

9 **SEC. 101. AUTHORIZATION OF APPROPRIATIONS.**

10 IN GENERAL.—Section 1118(a) is amended to read as follows:

11 “(a) IN GENERAL.—There are authorized to be appropriated for the purposes of
12 this chapter \$129,300,000 for fiscal year 2023, \$145,000,000 for fiscal year 2024,
13 \$155,000,000 for fiscal year 2025, \$165,000,000 for fiscal year 2026, and \$175,000,000
14 for fiscal year 2027. Such sums shall remain available until expended.”.

15 **SEC. 102. ACQUIRING MISSION-ESSENTIAL** 16 **KNOWLEDGE AND SKILLS.**

17 IN GENERAL.—Section 1113(b) is amended by adding at the end the following new
18 paragraph:

19 “(3) DIRECT HIRE AUTHORITY.—

20 “(A) IN GENERAL.—Notwithstanding section 3304 and sections 3309 through
21 3318 of title 5, United States Code, the Chair may, on a determination that there is a
22 severe shortage of candidates or a critical hiring need for particular positions, recruit and
23 directly appoint into the competitive service highly qualified personnel with specialized
24 knowledge important to the function of the Board.

25 “(B) LIMITATION.—The authority granted under subparagraph (A) shall
26 terminate on the date that is 3 years after the date of the enactment of this paragraph.

27 “(C) EXCEPTION.—The authority granted under subparagraph (A) shall not apply
28 to positions in the excepted service or the Senior Executive Service.

29 “(D) REQUIREMENTS.—In exercising the authority granted under subparagraph
30 (A), the Board shall ensure that any action taken by the Board—

31 “(i) is consistent with the merit principles of section 2301 of title 5, United
32 States Code; and

33 “(ii) complies with the public notice requirements of section 3327 of title
34 5, United States Code.”.

35 **SEC. 103. STRATEGIC HUMAN CAPITAL PLAN.**

36 IN GENERAL.—Section 1113 is amended by adding at the end the following new subsection:

1 “(h) Strategic Human Capital Plan.—

2 “(a) IN GENERAL.—The Board shall develop a ‘strategic human capital plan’ that
3 addresses the immediate and long-term personnel and workforce needs of the Board with
4 respect to carrying out the authorities and duties under this chapter.

5 “(b) ALIGNING THE WORKFORCE TO STRATEGIC GOALS.—

6 “(1) IN GENERAL.—The strategic human capital plan developed under
7 subsection (a) shall take into consideration—

8 “(A) the current state and capabilities of the Board, including a
9 high-level review of its mission requirements, structure, workforce, and
10 performance;

11 “(B) significant workforce trends, needs, issues, and challenges
12 with respect to the Board and the transportation industry;

13 “(C) the human capital policies, strategies, performance measures,
14 and interventions to mitigate succession risks that will guide the workforce
15 investment decisions of the Board;

16 “(D) a workforce planning strategy that identifies current and
17 future human capital needs, including the knowledge, skills, and abilities
18 needed to recruit and retain skilled workers at the Board;

19 “(E) a human capital management strategy that is aligned with the
20 mission, goals, and organizational objectives of the Board;

21 “(F) an implementation system for workforce goals focused on
22 addressing continuity of leadership and knowledge sharing across the
23 Board;

24 “(G) an implementation system that addresses workforce
25 competency gaps, particularly in mission-critical occupations; and,

26 “(H) a system for analyzing and evaluating the performance of the
27 Board’s human capital management policies, programs, and activities.

28 “(2) PLANNING PERIOD.—The strategic human capital plan developed
29 under subsection (a) shall address a 5-year forecast period, but shall include
30 planning for immediate, short-term, and longer term needs of the agency based on
31 information about trends in the transportation sector.

32 “(c) PLAN UPDATES.—The Board shall update the strategic human capital plan
33 developed under subsection (a) not less frequently than once every 5 years.

34 “(d) RELATIONSHIP TO STRATEGIC PLAN.—

35 “(1) IN GENERAL.—Subject to paragraph (2), the strategic human capital
36 plan developed under subsection (a) may be developed separately from, or
37 incorporated into, the strategic plan required under section 306 of title 5.

38 “(2) EFFECT OF SECTION.—Nothing in this section requires the Board to
39 incorporate the strategic human capital plan developed under subsection (a) into
40 the strategic plan required under section 306 of title 5.

1 “(e) PUBLIC AVAILABILITY.—The strategic human capital plan under subsection
2 (a) and the strategic plan required under section 306 of title 5 shall be made available to
3 the public on the Board’s website and shall include a summary in English and other non-
4 English languages, as determined by the Board, to facilitate accessibility for Limited
5 English Proficient individuals.

6 **SEC. 104. WORKFORCE DEVELOPMENT.**

7 IN GENERAL.—Section 1115 is amended in subsection (d), in the first sentence, by striking
8 the period after “accident investigation” and inserting “, and in those subjects furthering the
9 personnel and workforce development needs set forth in the Board’s most current human capital
10 plan as required by section 1113(h) of this title.”

11 **SEC. 105. SENIOR EXECUTIVE SUCCESSION PLANNING.**

12 IN GENERAL.—Section 3(a)(v) of Executive Order 13714 (December 15, 2015; related to the
13 rotational assignments of members of the Senior Executive Service) shall have no force or effect
14 upon the National Transportation Safety Board unless the number of Senior Executive Service
15 members employed by the Board exceeds 35.

16 **SEC. 106. INVESTIGATIVE AUTHORITIES.**

17 (a) HIGHWAY INVESTIGATIONS.—Section 1131(a)(1)(B) is amended by striking “selects
18 in cooperation with a State” and inserting “selects, concurrent with any State investigation”.

19 (b) RAIL INVESTIGATIONS.—Section 1131(a)(1)(C) is amended by striking “accident” and
20 all that follows through “train;”, and inserting the following: “accident, including a railroad
21 grade crossing or trespasser accident that the Board selects, or in which there is otherwise a
22 fatality or substantial property damage, or that involves a passenger train;”.

23 (c) RULEMAKINGS.—Within 12 months of the date of enactment of this Act, the Board
24 shall issue a final rule to define “substantial property damage” as the term is used in sections
25 1131(a)(1)(C) and (D).

26 **SEC. 107. ENSURING ACCESS TO DATA.**

27 IN GENERAL.—Section 1134 is amended by adding at the end the following new subsection:

28 “(g) RECORDERS AND DATA—In investigating an accident under this chapter,
29 the Board may—

30 “(1) obtain any recorder or recorded information pertinent to the accident;

31 “(2) require a manufacturer or its vendors, suppliers, or affiliates, to
32 provide to the Board, without delay, information the Board determines necessary
33 to enable it to read and interpret any recording device or recorded information
34 pertinent to the accident; and

35 “(3) require a manufacturer or its vendors, suppliers, or affiliates, to
36 provide to the Board, without delay, data and other intellectual property the Board
37 determines necessary to enable it to perform independent physics-based
38 simulations and analyses of the accident situation.”

1 **SEC. 108. TECHNICAL CORRECTIONS.**

2 **IN GENERAL.**—Section 1114 is amended—

3 (1) in subsection (b)—

4 (A) in the heading, by striking “TRADE SECRETS” and inserting
5 “CERTAIN CONFIDENTIAL INFORMATION”;

6 (B) in paragraph (1)—

7 (i) by inserting “IN GENERAL.—” before “The Board”;

8 (ii) by striking “information related to a trade secret referred to in
9 section 1905 of title 18” and inserting “confidential information, including
10 trade secrets, as described in section 1905 of title 18”.

11 **TITLE II – ENHANCING ACCOUNTABILITY AND**
12 **IMPROVING PROCESSES AND PRODUCTS**

13 **SEC. 201. DRUG-FREE WORKPLACE.**

14 **IN GENERAL.**—Not later than 12 months after the date of enactment of this Act, the Board
15 shall implement a drug testing program applicable to Board employees, including safety- or
16 security-sensitive positions, in accordance with Executive Order 12564 (September 15, 1986;
17 Drug-Free Workplace).

18 **SEC. 202. IMPROVING THE DELIVERY OF FAMILY**
19 **ASSISTANCE.**

20 (a) **AIRCRAFT ACCIDENTS.**—Section 1136 is amended—

21 (1) by striking “mental health and counseling services” each place it appears and
22 inserting “emotional, psychological and spiritual care and support services”;

23 (2) in subsection (a) —

24 (A) by inserting “within the United States, its territories, or over international waters”
25 after “aircraft accident”;

26 (B) in paragraph (2)—

27 (i) by striking “emotional care and support” and inserting “emotional,
28 psychological and spiritual care and support services”; and

29 (ii) by inserting “survivors and” before the second instance of “families”; and

30 (3) in subsection (c)—

31 (A) by inserting “and survivors” after “passengers”;

32 (B) in paragraph (3)—

33 (i) by inserting “survivors, and” before the first instance of “families”; and

34 (ii) by inserting “and survivors” after the third instance of “families”; and

1 (C) in paragraph (4) by inserting “and survivors” after “families”.

2 (4) in subsection (d) to read as follows:

3 “(d) PASSENGER LISTS.—

4 “(1) REQUESTS FOR PASSENGER LISTS BY THE DIRECTOR OF FAMILY
5 SERVICES.—

6 “(A) Requests by director of family support services.—It shall be the
7 responsibility of the director of family support services designated for an accident
8 under subsection (a)(1) to request, as soon as practicable, from the air carrier or
9 foreign air carrier involved in the accident a passenger list, which is based on the
10 best available information at the time of the request.

11 “(B) Use of information.—The director of family support services may not
12 release to any person information on a list obtained under subparagraph (A),
13 except that the director may, to the extent the director considers appropriate,
14 provide information on the list about a passenger to-

15 “(i) the family of the passenger; or

16 “(ii) a local, state, or Federal agency responsible for determining
17 the whereabouts or welfare of a passenger.

18 “(2) REQUESTS FOR PASSENGER LISTS BY DESIGNATED
19 ORGANIZATION.—

20 “(A) Requests by designated organization.—The organization designated
21 for an accident under subsection (a)(2) may request from the air carrier or foreign
22 air carrier involved in the accident a passenger list.

23 “(B) Use of information.—The designated organization may not release to
24 any person information on a passenger list but may provide information on the list
25 about a passenger to the family of the passenger to the extent the organization
26 considers appropriate.

27 (5) in subsection (h) by inserting a new paragraph (3):

28 “(3) PASSENGER LIST.— “The term “passenger list” means a list based on the best
29 available information at the time of a request, of the name of each passenger aboard the
30 aircraft involved in the accident.”.

31 (b) RAIL ACCIDENTS.—Section 1139 is amended—

32 (1) by striking “mental health and counseling services” each place it appears and
33 inserting “emotional, psychological and spiritual care and support services”;

34 (2) in subsection (a)(2)—

35 (A) by striking “emotional care and support” and inserting “emotional,
36 psychological and spiritual care and support services”; and

37 (B) by inserting “survivors and” before the second instance of “families”; and

38 (3) in subsection (c)—

1 (A) by inserting “and survivors” after “passengers”;

2 (B) in paragraph (3)—

3 (i) by inserting “survivors, and” before the first instance of “families”; and

4 (ii) by inserting “and survivors” after the third instance of “families”; and

5 (4) in subsection (d) to read as follows:

6 “(d) PASSENGER LISTS.—

7 “(1) REQUESTS FOR PASSENGER LISTS BY THE DIRECTOR OF FAMILY
8 SERVICES.—

9 “(A) Requests by director of family support services.—It shall be the
10 responsibility of the director of family support services designated for an accident
11 under subsection (a)(1) to request, as soon as practicable, from the rail passenger
12 carrier involved in the accident a passenger list, which is based on the best
13 available information at the time of the request.

14 “(B) Use of information.—The director of family support services shall
15 not release to any person information on a list obtained under subparagraph (A),
16 except that the director may, to the extent the director considers appropriate,
17 provide information on the list about a passenger to-

18 “(i) the family of the passenger; or

19 “(ii) a local, state, or federal agency responsible for determining
20 the whereabouts or welfare of a passenger.

21 “(2) REQUESTS FOR PASSENGER LISTS BY DESIGNATED
22 ORGANIZATION.—

23 “(A) Requests by designated organization.—The organization designated
24 for an accident under subsection (a)(2) may request from the rail passenger carrier
25 involved in the accident a passenger list.

26 “(B) Use of information.—The designated organization may not release to
27 any person information on a passenger list but may provide information on the list
28 about a passenger to the family of the passenger to the extent the organization
29 considers appropriate.

30 (5) in subsection (h), by inserting a new paragraph (4):

31 “(4) PASSENGER LIST.—“The term “passenger list” means a list based on the
32 best available information at the time of the request, of the name of each passenger
33 aboard the rail passenger carrier’s train involved in the accident. A rail passenger carrier
34 shall use reasonable efforts, with respect to its unreserved trains, and passengers not
35 holding reservations on its other trains, to ascertain the names of passengers aboard a
36 train involved in an accident.”.

37 (c) PLANS TO ADDRESS NEEDS OF FAMILIES OF PASSENGERS INVOLVED IN RAIL PASSENGER
38 ACCIDENTS.—Section 24316(a) is amended by striking “a major” and inserting “any”.

39 **SEC. 203. UPDATING CIVIL PENALTY AUTHORITY.**

1 IN GENERAL.—Section 1155 of title 49, United States Code, is amended—

2 (1) in the heading, by striking “Aviation penalties” and inserting “Penalties”;

3 (2) in subsection (a), by striking “or section 1136(g) (related to an aircraft accident)”
4 and inserting “section 1136(g), or 1139(g)”.

5 SEC. 204. ENSURING ACCOUNTABILITY FOR 6 TIMELINESS OF REPORTS.

7 IN GENERAL.—Section 1131 is amended by inserting at the end the following new
8 subsection:

9 “(f) TIMELINESS OF REPORTS.—If any accident report under paragraph (e) is not
10 completed within 2 years from the date of the accident, the Board shall submit to the Senate
11 Committee on Commerce, Science, and Transportation and the House Committee on
12 Transportation and Infrastructure a report identifying such accident report and the reasons for its
13 incompleteness. The Board shall report progress toward completion of the accident report to the
14 committees every 90 days thereafter, until such time as the accident report is completed.”

15 SEC. 205. IMPLEMENTING SAFETY 16 RECOMMENDATIONS.

17 IN GENERAL.—Section 1135 is amended—

18 (1) in the heading, by striking “Secretary of Transportation’s responses” and
19 inserting “Responses”;

20 (2) in subsection (a)—

21 (A) by inserting “or the Commandant of the Coast Guard” after “Secretary
22 of Transportation”; and

23 (B) by inserting “or the Commandant” after the second and the third
24 instances of “Secretary”.

25 (3) in subsection (e)—

26 (A) by redesignating paragraph (1) as (1)(A);

27 (B) by redesignating paragraphs (2) and (3) as subparagraphs (B) and (C),
28 respectively, of paragraph (1); and,

29 (C) by adding at the end the following new paragraph:

30 “(2)(A) ANNUAL COMMANDANT REGULATORY STATUS
31 REPORTS.—On February 1 of each year, the Commandant shall submit a
32 report to Congress and the Board containing the regulatory status of each
33 recommendation made by the Board to the Commandant that is on the
34 Board’s “most wanted list”. The Commandant shall continue to report on
35 the regulatory status of each such recommendation in the report due on
36 February 1 of subsequent years until final regulatory action is taken on
37 that recommendation or the Commandant determines and states in such a
38 report that no action should be taken.

1 “(B) FAILURE TO REPORT.—If on March 1 of each year the
2 Board has not received the Commandant’s report required by this
3 subsection, the Board shall notify the Committee on Transportation and
4 Infrastructure of the House of Representatives and the Committee on
5 Commerce, Science, and Transportation of the Senate of the
6 Commandant’s failure to submit the required report.

7 “(C) COMPLIANCE REPORT WITH
8 RECOMMENDATIONS.—Not later than 90 days after the date on which
9 the Commandant submits a report under this subsection, the Board shall
10 review the Commandant’s report and transmit comments on the report to
11 the Commandant, the Committee on Commerce, Science, and
12 Transportation of the Senate, and the Committee on Transportation and
13 Infrastructure of the House of Representatives.”.

14 **SEC. 206. CLOSED UNACCEPTABLE**
15 **RECOMMENDATIONS.**

16 **IN GENERAL.**—Section 1116(c) is amended—

17 (1) by redesignating paragraphs (3) through (6) as paragraphs (4) through (7),
18 respectively; and,

19 (2) by inserting after paragraph (2) the following new paragraph (3):

20 “(3) a list of each recommendation made by the Board to the Secretary of
21 Transportation or the Commandant of the Coast Guard that was closed in an
22 unacceptable status in the preceding 12 months;”.

23 **TITLE III -- STRENGTHENING DIVERSITY, EQUITY,**
24 **INCLUSION, AND ACCESSIBILITY**

25 **SEC. 301. CREATING A DIVERSE AND INCLUSIVE**
26 **WORKFORCE.**

27 **IN GENERAL.**— In preparing the strategic human capital plan called for in Section 103 of this
28 Act, the Board shall provide guidance, implement policies and programs, and develop
29 benchmarking measures to recruit, hire, develop, promote, and retain a workforce that realize
30 and reaffirm the Federal commitment to greater diversity, equity, inclusion, and accessibility,
31 and that seek to create employment opportunity for individuals belonging to underserved
32 communities that have historically been denied such opportunity. In this section, the term
33 “underserved communities” has the meaning given the term in Section 2(a) of Executive Order
34 14035 (June 25, 2021; related to Diversity, Equity, Inclusion, and Accessibility in the Federal
35 Workforce).

36 **SEC. 302. PROMOTING DIVERSITY, EQUITY,**
37 **INCLUSION, AND ACCESSIBILITY IN THE WORKFORCE.**

1 IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Board shall
2 make publicly available on the website of the National Transportation Safety Board the action
3 plans prepared in response to Executive Order 13985 (January 20, 2021; related to Promoting
4 Equitable Delivery of Government Benefits and Equitable Opportunities) and Executive Order
5 14035 (June 25, 2021; related to Diversity, Equity, Inclusion, and Accessibility in the Federal
6 Workforce), and shall further make publicly available progress in implementing the action plans
7 and any subsequent updates to such action plans.

8 SEC. 303. ENHANCING TRANSPARENCY OF EQUAL 9 EMPLOYMENT OPPORTUNITY PROGRAMS.

10 IN GENERAL.—Not later than 90 days after the date of enactment of this Act and annually
11 thereafter, the Board shall make publicly available on the website of the National Transportation
12 Safety Board its most recent report to the Equal Employment Opportunity Commission pursuant
13 to the Commission’s Management Directive (MD) 715. The report shall detail the Board’s
14 efforts to maintain an effective affirmative program of equal employment opportunity under
15 Section 717 of the Civil Rights Act of 1964 and Section 501 of the Rehabilitation Act of 1973.

16 SEC. 304. ACCESSIBILITY IN THE WORKPLACE.

17 IN GENERAL.—

18 (a) Within 12 months of the date of enactment of this Act, the Board shall conduct an
19 assessment of the headquarters and regional offices of the National Transportation Safety Board
20 to determine barriers to accessibility. Such assessment shall consider compliance with the
21 Architectural Barriers Act of 1968 (42 U.S.C. 4151 et seq.), the corresponding Accessibility
22 Guidelines (36 C.F.R. Part 1191), and the Americans with Disabilities Act of 1990 (42 U.S.C.
23 12101 et seq.), and shall further consider best accessibility practices that exceed those
24 recommended under the Acts and Guidelines.

25 (b) Such sums as necessary are authorized to implement corrective actions to remove the
26 barriers to accessibility identified by the assessment. Such sums shall remain available until
27 expended.

28 SEC. 305. AVAILABILITY OF PRODUCTS IN 29 LANGUAGES OTHER THAN ENGLISH.

30 IN GENERAL.—Section 1118 is amended by adding at the end the following new subsection:

31 “(d) PUBLIC ACCESS TO NTSB RESOURCES.—The Board shall use funds
32 authorized to be appropriated under subsection (a), to ensure written products,
33 determined appropriate by the Board, are available to the public in languages other than
34 English, to facilitate accessibility for Limited English Proficient individuals.”.

35 SEC. 306. REFERENCES TO CHAIRMAN AND VICE 36 CHAIRMAN.

37 (a) REFERENCES IN CHAPTER 11.— Chapter 11 is amended—

38 (1) by striking “Chairman” each place it appears and inserting “Chair” (except

1 when referring to the Vice Chairman); and
2 (2) by striking “Vice Chairman” each place it appears and inserting “Vice Chair”.
3 (b) DEEMING OF NAME.—Any reference in a law, regulation, document, paper, or other
4 record of the United States to the Chairman or to the Vice Chairman of the National
5 Transportation Safety Board shall be deemed to be a reference to the Chair or to the Vice Chair
6 of the National Transportation Safety Board.

National Transportation Safety Board Reauthorization Act of 2022

Section-by-Section Analysis

Section 1. Short title; table of contents; references.

This section would provide that the bill may be cited as the “National Transportation Safety Board Reauthorization Act of 2022.” This section also would provide a table of contents for the bill, and provide that all references to the United States Code in the Act should be considered references to title 49, unless otherwise provided.

TITLE I – ENSURING READINESS FOR OUR MISSION

Section 101. Authorization of appropriations.

This section would authorize appropriations for the National Transportation Safety Board (NTSB) for fiscal years (FY) 2023 through 2027. This bill would authorize \$129.3 million in FY 2023, \$145 million for FY 2024, \$155 million for FY 2025, \$165 million for FY 2026, and \$175 million for FY 2027. These funding levels would enable the NTSB to carry out its safety mission, including addressing critical hiring needs, enhancing workforce training and development, and investing in equipment and technology. Funding would also enable us to enhance and maintain the multimodal accident database management system required by Congress in section 1108 of Public Law 115-245.

Section 102. Acquiring mission-essential knowledge and skills.

This section would authorize the Board to directly hire highly qualified investigators, engineers, or critical technical personnel into the competitive service in the event of a severe shortage of candidates or a critical hiring need for particular positions. This authority will sunset 3 years after the date of enactment of this Act, and will not apply to positions in the excepted service or the Senior Executive Service. The Board must comply with the merit principles of section 2301 of title 5, United States Code, and the public notice requirements of section 3327 of title 5, United States Code, in exercising this direct hire authority.

Section 103. Strategic human capital plan.

This section would amend 49 USC 1113 by creating a new subsection (h), directing the Board, within 18 months of the date of enactment of this Act, to complete a human capital plan. This plan would address immediate and long-term employment needs of the agency based upon trends in the transportation industry; support employee retention and succession planning; identify areas in which competency gaps presently exist; and, evaluate the plan’s overall effectiveness. The human capital plan would be updated no less frequently than every five years, and would be made publicly available on the Board’s website in English and other non-English languages, determined by the Board, to facilitate accessibility by Limited English Proficient individuals.

Section 104. Workforce development.

This section would make clear that the Board’s authority to train its workforce, as provided for by 49 USC 1115(d), includes the authority to provide workforce development training that will support the goals of the human capital plan directed by Section 103 of this Act. As presently written, 49 USC 1115(d) provides express authority only for training directly related to accident investigation.

Section 105. Senior Executive succession planning.

This section would provide flexibility to the Board to allow the effective allocation of its Senior Executives’ expertise and leadership. The NTSB strongly supports development of its Senior Executives, but current law has resulted in the agency limiting the number of Senior Executives to 19 which, in turn, prohibits the agency from ensuring appropriate succession planning for executives within highly technical modes including highway, rail, and pipeline and hazardous materials safety.

Executive Order (EO) 13714, issued December 15, 2015, calls for agencies with 20 or more Senior Executives to develop a plan to rotate 15 percent of those executives to other assignments for a minimum of 120 days annually. Such rotations may involve reassignment to other positions within the agency, with other federal agencies, or with non-federal partners. The addition of any Senior Executive Service positions at the Board would require compliance with the rotation program called for in the EO. Given the small size of the Board’s workforce, however, the obligation to move Senior Executives who are highly technical from their currently-assigned leadership positions could create significant difficulties in accomplish NTSB’s mission – both within the affected offices, as well as the agency at large.

Section 106. Investigative authorities.

This section makes amendments to NTSB’s general authority to investigate highway and railroad accidents. Commercial space is addressed in the letter accompanying this package.

Subsection (a) amends the authority for highway investigations to clarify that an NTSB safety investigation is separate, but parallel to, any state criminal investigation. Highway crashes that the NTSB investigates usually are also subject to state and/or local criminal investigations. The NTSB must coordinate with authorities for access to evidence and witnesses. The current wording of the statute “in cooperation with a State” often causes confusion and concern by local authorities regarding the NTSB’s role in a state’s criminal investigation and how NTSB involvement may impede their investigation and any criminal charges. It also gives the impression that states do not have to cooperate with the agency, which is problematic since the state controls much of the evidence and information in highway crashes. This was demonstrated in the investigation of a 2018 limousine crash in Schoharie, New York. The local District Attorney asserted that the current language, specifically that NTSB investigates “in cooperation

with a State,” implied that NTSB’s safety investigations were secondary to a state’s criminal investigation, and therefore the State could restrict NTSB’s access to the evidence. While a State court ultimately sided in favor of the NTSB, the NTSB was denied timely access to the crash vehicles and related information to follow our usual investigative protocols.

Subsection (b) would amend the current NTSB rail investigative authority to provide that accidents at railroad grade crossings, or which involve rail trespassers, are not accidents in which Board investigation is mandatory. Rather, the Board would retain the flexible jurisdiction to investigate those grade crossing or trespasser accidents in which it determines a significant safety benefit to the public may accrue. Authority for the investigation of railroad grade crossing accidents is already set forth in 49 USC 1131(a)(1)(b), and indeed the Board traditionally treats such accidents as highway investigations, with the active involvement of railroad investigators. Creating the same investigative discretion for the Board’s rail division to select grade crossing accidents as already exists for its highway division will harmonize the investigative jurisdictions of both.

Trespassing on railroad property is the leading cause of rail-related fatalities, accounting for 62 percent of US rail-related deaths in fiscal year 2018. However, the NTSB is unable to investigate every trespasser fatality and, in fact, investigates such accidents extremely rarely due to limited resources and limited safety benefits. Under 49 USC 1116(c)(5), the NTSB must annually report a list of these accidents. Excluding these accidents from the requirement under 49 USC 1131(a)(1)(C) would focus the NTSB’s mandate and resources in investigating rail accidents for which there are safety benefits.

Subsection (c) provides greater specificity to the term “substantial property damage,” as that term is used in sections 1131(a)(1)(C) and (D) regarding railroad and pipeline investigative jurisdiction. This subsection directs the Board, within 12 months of the date of enactment of this Act, to issue a final rule defining the term. Such rulemaking would provide clarity to the Federal Railroad Administration, the Pipeline and Hazardous Materials Safety Administration, industry and labor organizations, and other safety stakeholders regarding the threshold for rail and pipeline accident property damage sufficient to precipitate a Board investigation.

Section 107. Ensuring access to data.

This section would clarify the NTSB’s authority to obtain recorded information and require provision of information, including proprietary intellectual property, to enable the Board to independently analyze the data and overall performance of an accident situation.

Section 108. Technical corrections.

This section would make a technical correction to the NTSB’s authority to release information to the public under 49 USC 1114 and the Trade Secrets Act.

TITLE II – ENHANCING ACCOUNTABILITY AND IMPROVING PROCESSES AND PRODUCTS

Section 201. Drug-Free workplace.

This section would direct the Board to implement a program for the drug testing of its employees, pursuant to Executive Order (EO) 12564 (September 15, 1986; Drug-free Federal Workplace).

Section 202. Improving the delivery of family assistance.

In order to improve the delivery of family assistance, this section:

Current law requires the NTSB to conduct family assistance for any investigation it leads, including in sovereign territories. This could create conflict, especially if the country in which the accident has occurred also has family assistance legislation or the country's laws run contrary to the assurances outlined in U.S. statute. This section amends section 1136(a) to clarify that the NTSB will provide family assistance for investigations the NTSB leads in the United States, its territories, or over international waters.

Amends sections 1136(d) and 1139 to separate the NTSB and designated organization functions associated with passenger lists and allow the NTSB to disclose information from passenger lists to local, state, or federal agencies responsible for determining the whereabouts or welfare of passengers. As currently worded, the legislation permits the NTSB to share such information solely with a family member. Historically, the NTSB has shared information from the passenger list/manifest with federal, state, and local agencies, healthcare systems/hospitals, and the designated organization (i.e. the American Red Cross), when necessary to determine the whereabouts and welfare of the victims involved in the transportation accident (i.e. to account for the victims involved in the accident). The disclosure restriction should remain for the designated organization as it relates to releasing the passenger list.

Amends sections 1136 and 1139 to add assistance to survivors of covered accidents to designated organization responsibilities to conform statute with current operating practices and with the air and rail carrier obligations set forth in 49 US Code (USC) 41113 (b)(15), 49 USC 41313 (c)(15), and 49 USC 24316 (b)(8).

Amends section 24316, regarding rail passenger accidents, to conform with the Amtrak statute, with the amendments to section 1139, regarding "any loss of life." Section 24316 requires rail passenger carriers to submit plans for addressing the needs of the families of passengers involved in a covered rail passenger accident. This conforming change will ensure that any future operators will be required to submit such plans.

Section 203. Updating civil penalty authority.

This section would expand the current authority for civil penalties to cover activities related to railroad accidents. Under current law, civil penalties are applied to aircraft accidents.

Section 204. Ensuring accountability for timeliness of reports.

This section would ensure the visibility of any accident or crash investigation not completed within two years from the date of the event. For any such delayed report, the Board must provide a report to the relevant Congressional committees identifying the investigation and the reasons why a final report was not issued within two years. This report to Congress must be updated every 90 days, until the investigation is completed and a final report is issued.

Section 205. Implementing safety recommendations.

This section would apply to the US Coast Guard (USCG) the same requirements that currently apply to the US Department of Transportation (USDOT) under 49 USC 1135 for responding to NTSB safety recommendations and for providing an annual report to Congress on the regulatory status of each recommendation on the Most Wanted List. When USCG was transferred from USDOT to the newly established US Department of Homeland Security in 2003, it was no longer subject to the requirements.

Section 206. Closed unacceptable recommendations.

This section would require the Board, as part of its Annual Report to Congress, to identify each recommendation made to the Secretary of Transportation or the Commandant of the Coast Guard that was closed in an unacceptable status in the preceding 12 months. This requirement would provide the Congressional committees of jurisdiction with greater visibility to the inaction of the Secretary or Commandant to improve transportation safety.

TITLE III – STRENGTHENING DIVERSITY, EQUITY, INCLUSION, AND ACCESSIBILITY

Section 301. Creating a diverse and inclusive workforce.

This section directs the Board, as part of the human capital plan called for by Section 103 of this Act, to employ efforts to increase the diversity, equity, inclusion, and accessibility of its agency workforce. It directs the Board to use efforts to create employment opportunities for members of historically underserved communities, as that term is broadly defined in Section 2(a) of Executive Order 14035 (June 25, 2021; related to Diversity, Equity, Inclusion, and Accessibility in the Federal Workforce).

Section 302. Promoting diversity, equity, inclusion, and accessibility in the workforce.

This section directs the Board, within 90 days of enactment of the Act, to publicly post on its website the action plans prepared in response to Executive Order (EO) 13985 (January 20, 2021; related to Promoting Equitable Delivery of Government Benefits and Equitable Opportunities) and EO 14035 (June 25, 2021; related to Diversity, Equity, Inclusion, and Accessibility in the Federal Workforce). This section further directs the Board to publicly post its progress toward implementing the action plans and any subsequent updates to these plans.

Section 303. Enhancing transparency of equal employment opportunity programs.

This section directs the Board, within 90 days of enactment of the Act and annually thereafter, to publicly post on its website the most recent annual report to the Equal Employment Opportunity Commission, as required by the Commission's Management Directive (MD) 715.

Section 304. Accessibility in the workplace.

Subsection (a) directs the Board to conduct, within 12 months of the date of enactment of this Act, an assessment of its headquarters and regional offices to identify barriers to accessibility consistent with the Architectural Barriers Act of 1968 (42 U.S.C. 4151 et seq.) and its corresponding Accessibility Guidelines (36 C.F.R. Part 1191), and the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.). Because identifying and removing barriers to the full accessibility to Board offices by the agency's workforce is so critical, this subsection directs the Board to further consider in its assessment best accessibility practices that exceed those recommended under the Acts and Guidelines.

Subsection (b) authorizes such sums as may be necessary to implement corrective actions to remove the accessibility barriers identified by the assessment.

Sec. 305. Availability of products in languages other than English.

This section directs the Board to ensure that written products, determined appropriate by the Board, are made available to the public in languages other than English, to facilitate accessibility for Limited English Proficient individuals.

Section 306. References to Chairman and Vice Chairman.

The section replaces gender-specific references to the NTSB *Chairman* and *Vice Chairman* with the gender-neutral terms *Chair* and *Vice Chair*.