

National Transportation Safety Board

Office of the Chair

Washington, DC 20594



March 20, 2023

The Honorable Kevin McCarthy
Speaker
US House of Representatives
H-232, The Capitol
Washington, DC 20515

Dear Speaker McCarthy:

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) 2028, and request that you introduce it for consideration by the Congress. The NTSB's most recent authorization expired 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.

Our nation is experiencing tremendous growth in transportation with new and exciting ways of moving people and goods—from commercial space transportation and urban air mobility to automated vehicles and battery-powered aircraft and more. We are also seeing historic investments in our transportation systems and infrastructure, including pedestrian and bicycle infrastructure, along with the deployment of new, clean fuel sources. While these present great opportunities for improving safety, they also present safety challenges. This draft bill will position the NTSB to help meet those challenges.

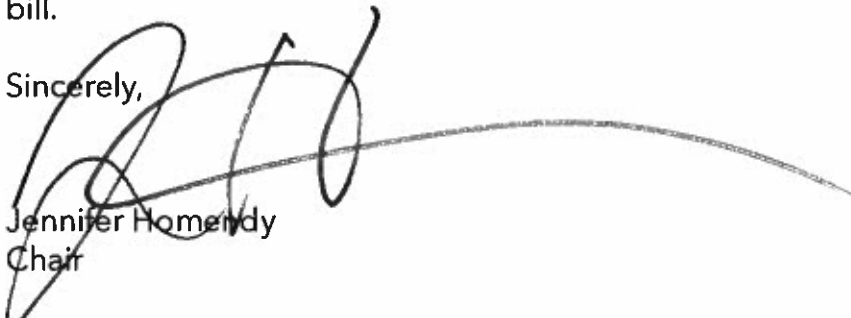
The draft bill, if implemented, will improve our ability to carry out our critical safety mission now and in the future; to recruit, retain, and develop a highly qualified,

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.

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 20, 2023

The Honorable Kamala D. Harris
Vice President
United States Senate
S-212, The Capitol
Washington, DC 20515

Dear Madame Vice 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) 2028, and request that you introduce it for consideration by the Congress. The NTSB's most recent authorization expired 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.

Our nation is experiencing tremendous growth in transportation with new and exciting ways of moving people and goods—from commercial space transportation and urban air mobility to automated vehicles and battery-powered aircraft and more. We are also seeing historic investments in our transportation systems and infrastructure, including pedestrian and bicycle infrastructure, along with the deployment of new, clean fuel sources. While these present great opportunities for improving safety, they also present safety challenges. This draft bill will position the NTSB to help meet those challenges.

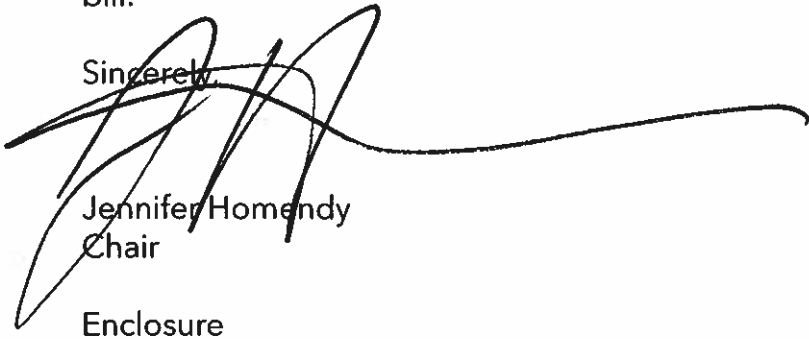
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The bill also includes measures to enhance accountability for implementing NTSB safety recommendations and improves our processes and products. Examples of these improvements include the development and implementation of a strategic human capital plan 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.

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

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read 'Jennifer Homendy', with a long horizontal flourish extending to the right.

Jennifer Homendy
Chair

Enclosure

1 Title: To amend title 49, United States Code, to authorize appropriations for the National
2 Transportation Safety Board for fiscal years 2024 through 2028, and for other purposes.
3

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

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

8 (a) **SHORT TITLE.**—This Act may be cited as the “National Transportation Safety Board
9 Authorization Act of 2023”.

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

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

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

13 Sec. 101. Authorization of appropriations.

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

15 Sec. 103. Strategic human capital plan.

16 Sec. 104. Protection of confidential information and interview recordings.

17 Sec. 105. Workforce development.

18 Sec. 106. Investigative authorities.

19 Sec. 107. Ensuring access to data.
20

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

23 Sec. 201. Drug-Free workplace.

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

25 Sec. 203. Updating civil penalty authority.

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

27 Sec. 205. Implementing safety recommendations.

28 Sec. 206. Closed unacceptable recommendations.

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

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

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

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

34 Sec. 304. Accessibility in the workplace.

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

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

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

7 **TITLE I – ENSURING MISSION READINESS**

8 **SEC. 101. AUTHORIZATION OF APPROPRIATIONS.**

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

10 “(a) IN GENERAL.—There are authorized to be appropriated for the purposes of
11 this chapter \$145,000,000 for fiscal year 2024, \$155,000,000 for fiscal year 2025,
12 \$165,000,000 for fiscal year 2026, \$175,000,000 for fiscal year 2027, and \$185,000,000
13 for fiscal year 2028. Such sums shall remain available until expended.”.

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

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

18 “(3) DIRECT HIRE AUTHORITY.—

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

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

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

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

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

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

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

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

36 “(h) Strategic Human Capital Plan.—

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

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

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

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

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

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

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

21 “(v) a human capital management strategy that is aligned
22 with the mission, goals, and organizational objectives of the Board;

23 “(vi) an implementation system for workforce goals
24 focused on addressing continuity of leadership and knowledge
25 sharing across the Board;

26 “(vii) an implementation system that addresses workforce
27 competency gaps, particularly in mission-critical occupations; and,

28 “(viii) a system for analyzing and evaluating the
29 performance of the Board’s human capital management policies,
30 programs, and activities.

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

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

37 “(4) RELATIONSHIP TO STRATEGIC PLAN.—

38 “(A) IN GENERAL.—Subject to paragraph (2), the strategic human
39 capital plan developed under subsection (a) may be developed separately

1 from, or incorporated into, the strategic plan required under section 306 of
2 title 5.

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

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

11 SEC. 104. PROTECTION OF CONFIDENTIAL 12 INFORMATION AND INTERVIEW RECORDINGS.

13 (a) IN GENERAL.—Section 1114 is amended—

14 (1) in subsection (a) by striking “and (f)” and inserting “(f), and (h)”.

15 (2) in subsection (b)—

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

18 (B) in paragraph (1)—

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

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

23 (3) by adding at the end the following new subsection:

24 “(h) INTERVIEW RECORDINGS.—The Board may not disclose publicly any
25 part of any audio or video recording of an interview of participants in, or
26 witnesses to, an accident or incident investigated by the Board.”.

27 (b) SAVINGS PROVISION.—The amendment made in subsection (a)(3) shall not be construed
28 to limit in any way the authority of the Board to release transcripts or summaries of interviews.

29 SEC. 105. WORKFORCE DEVELOPMENT.

30 (a) TRAINING ON EMERGING TRANSPORTATION TECHNOLOGIES.— Section 1113(b)(1) is
31 amended—

32 (1) in subparagraph (I) by striking “and” at the end;

33 (2) in subparagraph (J) by striking the period at the end and inserting “; and”

34 (3) by inserting after subparagraph (J) the following new subparagraph:

35 “(K) notwithstanding section 3301 of title 41, acquire training on
36 emerging transportation technologies.”.

1 (b) ADDITIONAL TRAINING NEEDS.—Section 1115 is amended in subsection (d), in the first
2 sentence, by striking the period after “accident investigation” and inserting “, and in those
3 subjects furthering the personnel and workforce development needs set forth in the Board’s most
4 current human capital plan as required by section 1113(h) of this title.”

5 SEC. 106. INVESTIGATIVE AUTHORITIES.

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

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

12 (c) COMMERCIAL SPACE INVESTIGATIONS.—Section 1131(a)(1) is amended—

13 (1) in subparagraph (E), by striking “and” at the end;

14 (2) by redesignating paragraph (F) as paragraph (G); and

15 (3) by inserting after subparagraph (E) the following new subparagraph:

16 “(F)(1) a Federal Aviation Administration permitted, licensed, or otherwise
17 approved commercial space launch or reentry mishap in which there is—

18 “(i) a fatality or serious injury to any person, regardless of whether the
19 person was on board the commercial space launch or reentry vehicle; or

20 “(ii) damage to property from debris that could reasonably be expected to
21 cause death or serious injury, and the property is not associated with commercial
22 space launch or reentry activities or the launch site.

23 “(2) For the purposes of this paragraph, the term “property” means
24 “buildings and structures, anything that transports people or goods, or areas
25 occupied or intended to be occupied by people.”.

26 (d) TECHNICAL CORRECTIONS.—Section 1131(a)(2)(A) is amended by striking “or (F)”
27 and inserting “(F), or (G)”.

28 SEC. 107. ENSURING ACCESS TO DATA.

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

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

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

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

37 “(3) require a manufacturer or its vendors, suppliers, or affiliates, to
38 provide to the Board, without delay, data and other intellectual property the Board

1 determines necessary to enable it to perform independent physics-based
2 simulations and analyses of the accident situation.”

3
4 **TITLE II – ENHANCING ACCOUNTABILITY AND**
5 **IMPROVING PROCESSES AND PRODUCTS**

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

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

11 **SEC. 202. IMPROVING THE DELIVERY OF FAMILY**
12 **ASSISTANCE.**

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

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

16 (2) in subsection (a) —

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

19 (B) in paragraph (2)—

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

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

23 (3) in subsection (c)—

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

25 (B) in paragraph (3)—

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

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

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

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

30 “(d) **PASSENGER LISTS.**—

31 “(1) **REQUESTS FOR PASSENGER LISTS BY THE DIRECTOR OF FAMILY**
32 **SERVICES.**—

33 “(A) Requests by director of family support services.—It shall be the
34 responsibility of the director of family support services designated for an accident

1 under subsection (a)(1) to request, as soon as practicable, from the air carrier or
2 foreign air carrier involved in the accident a passenger list, which is based on the
3 best available information at the time of the request.

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

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

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

11 “(2) REQUESTS FOR PASSENGER LISTS BY DESIGNATED
12 ORGANIZATION.—

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

16 “(B) Use of information.—The designated organization may not release to
17 any person information on a passenger list but may provide information on the list
18 about a passenger to the family of the passenger to the extent the organization
19 considers appropriate.

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

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

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

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

27 (2) in subsection (a)(2)—

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

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

31 (3) in subsection (c)—

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

33 (B) in paragraph (3)—

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

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

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

37 “(d) PASSENGER LISTS.—

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

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

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

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

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

15 “(2) REQUESTS FOR PASSENGER LISTS BY DESIGNATED
16 ORGANIZATION.—

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

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

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

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

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

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

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

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

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

38

1 SEC. 204. ENSURING ACCOUNTABILITY FOR
2 TIMELINESS OF REPORTS.

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

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

11 SEC. 205. IMPLEMENTING SAFETY
12 RECOMMENDATIONS.

13 IN GENERAL.—Section 1135 is amended—

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

16 (2) in subsection (e)—

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

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

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

21
22 “(2)(A) ANNUAL COMMANDANT REGULATORY STATUS
23 REPORTS.—On February 1 of each year, the Commandant of the Coast
24 Guard shall submit a report to Congress and the Board containing the
25 regulatory status of each recommendation made by the Board to the
26 Commandant that is on the Board’s “most wanted list”. The Commandant
27 shall continue to report on the regulatory status of each such
28 recommendation in the report due on February 1 of subsequent years until
29 final regulatory action is taken on that recommendation or the
30 Commandant determines and states in such a report that no action should
31 be taken.

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

38 “(C) COMPLIANCE REPORT WITH
39 RECOMMENDATIONS.—Not later than 90 days after the date on which
40 the Commandant submits a report under this subsection, the Board shall

1 review the Commandant’s report and transmit comments on the report to
2 the Commandant, the Committee on Commerce, Science, and
3 Transportation of the Senate, and the Committee on Transportation and
4 Infrastructure of the House of Representatives.”.

5 **SEC. 206. CLOSED UNACCEPTABLE**
6 **RECOMMENDATIONS.**

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

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

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

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

14 **TITLE III -- STRENGTHENING DIVERSITY, EQUITY,**
15 **INCLUSION, AND ACCESSIBILITY**

16 **SEC. 301. CREATING A DIVERSE AND INCLUSIVE**
17 **WORKFORCE.**

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

27 **SEC. 302. PROMOTING DIVERSITY, EQUITY,**
28 **INCLUSION, AND ACCESSIBILITY IN THE WORKFORCE.**

29 **IN GENERAL.**—Not later than 90 days after the date of enactment of this Act, the Board shall
30 make publicly available on the website of the National Transportation Safety Board the action
31 plans prepared in response to Executive Order 13985 (January 20, 2021; related to Promoting
32 Equitable Delivery of Government Benefits and Equitable Opportunities) and Executive Order
33 14035 (June 25, 2021; related to Diversity, Equity, Inclusion, and Accessibility in the Federal
34 Workforce), and shall further make publicly available progress in implementing the action plans
35 and any subsequent updates to such action plans.

36

1 **SEC. 303. ENHANCING TRANSPARENCY OF EQUAL**
2 **EMPLOYMENT OPPORTUNITY PROGRAMS.**

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

9 **SEC. 304. ACCESSIBILITY IN THE WORKPLACE.**

10 **IN GENERAL.**—

11 (a) Within 12 months of the date of enactment of this Act, the Board shall conduct an
12 assessment of the headquarters and regional offices of the National Transportation Safety Board
13 to determine barriers to accessibility. Such assessment shall consider compliance with the
14 Architectural Barriers Act of 1968 (42 U.S.C. 4151 et seq.), the corresponding Accessibility
15 Guidelines (36 C.F.R. Part 1191), and the Americans with Disabilities Act of 1990 (42 U.S.C.
16 12101 et seq.), and shall further consider best accessibility practices that exceed those
17 recommended under the Acts and Guidelines.

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

21 **SEC. 305. AVAILABILITY OF PRODUCTS IN**
22 **LANGUAGES OTHER THAN ENGLISH.**

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

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

28 **SEC. 306. REFERENCES TO CHAIRMAN AND VICE**
29 **CHAIRMAN.**

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

31 (1) by striking “Chairman” each place it appears and inserting “Chair” (except
32 when referring to the Vice Chairman); and

33 (2) by striking “Vice Chairman” each place it appears and inserting “Vice Chair”.

34 (b) **DEEMING OF NAME.**—Any reference in a law, regulation, document, paper, or other
35 record of the United States to the Chairman or to the Vice Chairman of the National
36 Transportation Safety Board shall be deemed to be a reference to the Chair or to the Vice Chair
37 of the National Transportation Safety Board.

National Transportation Safety Board Reauthorization Act of 2023

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 2023.” 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) 2024 through 2028. This bill would authorize \$145 million for FY 2024, \$155 million for FY 2025, \$165 million for FY 2026, \$175 million for FY 2027, and \$185 million for FY 2028. 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. Protection of confidential information and interview recordings.

This section would protect audio and video recordings that the NTSB makes of interviews of participants in, or witnesses to, accidents which the Board is investigating from public release, consistent with current protections for cockpit and surface recorders. The provision does not affect the release of transcripts or summaries of such interviews, which would still be publicly released as is the current process. The potential for release of audio and video recordings has been raised as a concern by some who could provide information critical to an investigation, and currently the Board has no authority to protect against such disclosures.

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

Section 105. Workforce development.

This section would amend 49 USC 1113 to provide the Board flexible authority to acquire training on emerging transportation technologies.

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 106. Investigative authorities.

This section makes amendments to NTSB's general authority to investigate highway and railroad accidents and clarifies the Board's existing authority to investigate commercial space mishaps, consistent with the September 2022 memorandum of agreement with the Federal Aviation Administration (FAA).

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) adds language to clarify the Board's existing authority to conduct safety investigations of certain commercial space launch and reentry mishaps. The new language would codify which commercial space mishaps the NTSB would investigate consistent with a memorandum of agreement signed with the FAA in September 2022. Under that agreement and this language, the NTSB will investigate a mishap involving a FAA permitted, licensed, or otherwise approved launch or reentry in which there is 1) a fatality or serious injury to any person on board the commercial space launch or reentry vehicle, or 2) that results in damage to property not associated with the commercial space launch or reentry activities or the launch site, from debris that could reasonably be expected to cause death or serious injury.

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.

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.

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 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*.