

106TH CONGRESS
2D SESSION

S. 2412

To amend title 49, United States Code, to authorize appropriations for the National Transportation Safety Board for fiscal years 2000, 2001, 2002, and 2003, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 12, 2000

Mr. McCAIN introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To amend title 49, United States Code, to authorize appropriations for the National Transportation Safety Board for fiscal years 2000, 2001, 2002, and 2003, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*

2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; REFERENCES.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “National Transportation Safety Board Amendments Act
6 of 2000”.

7 (b) REFERENCES.—Except as otherwise specifically
8 provided, whenever in this Act an amendment or repeal

1 is expressed in terms of an amendment to, or repeal of,
2 a section or other provision of law, the reference shall be
3 considered to be made to a section or other provision of
4 title 49, United States Code.

5 **SEC. 2. DEFINITIONS.**

6 Section 1101 is amended to read as follows:

7 **“§ 1101. Definitions**

8 “Section 2101(17a) of title 46 and section 40102(a)
9 of this title apply to this chapter. In this chapter, the term
10 ‘accident’ includes damage to or destruction of vehicles in
11 surface or air transportation or pipelines, regardless of
12 whether the initiating event is accidental or otherwise.”.

13 **SEC. 3. AUTHORITY TO ENTER INTO AGREEMENTS.**

14 (a) **IN GENERAL.**—Section 1113(b)(1)(I) is amended
15 to read as follows:

16 “(I) negotiate and enter into agreements
17 with individuals and private entities and depart-
18 ments, agencies, and instrumentalities of the
19 Government, State and local governments, and
20 governments of foreign countries for the provi-
21 sion of facilities, accident-related services or
22 training in accident investigation techniques,
23 and require that such entities provide appro-
24 priate consideration for the reasonable costs of

1 any facilities, services, or training provided by
2 the Board.”.

3 (b) DEPOSIT OF AMOUNTS.—

4 (1) Section 1113(b)(2) is amended—

5 (A) by inserting “as offsetting collections”
6 after “to be credited”; and

7 (B) by adding after “Board.” the fol-
8 lowing: “The Board shall maintain an annual
9 record of collections received under paragraph
10 (1)(I) of this subsection.”.

11 (2) Section 1114(a) is amended—

12 (A) by inserting “(1)” before “Except”;
13 and

14 (B) by adding at the end thereof the fol-
15 lowing:

16 “(2) The Board shall deposit in the Treasury
17 amounts received under paragraph (1) to be credited
18 to the appropriation of the Board as offsetting col-
19 lections.”.

20 (3) Section 1115(d) is amended by striking “of
21 the ‘National Transportation Safety Board, Salaries
22 and Expenses’” and inserting “of the Board”.

23 **SEC. 4. OVERTIME PAY.**

24 Section 1113 is amended by adding at the end the
25 following:

1 “(g) OVERTIME PAY.—

2 “(1) IN GENERAL.—Subject to the require-
3 ments of this section and notwithstanding para-
4 graphs (1) and (2) of section 5542(a) of title 5, for
5 an employee of the Board whose basic pay is at a
6 rate which equals or exceeds the minimum rate of
7 basic pay for GS-10 of the General Schedule, the
8 Board may establish an overtime hourly rate of pay
9 for the employee with respect to work performed at
10 the scene of an accident (including travel to or from
11 the scene) and other work that is critical to an acci-
12 dent investigation in an amount equal to one and
13 one-half times the hourly rate of basic pay of the
14 employee. All of such amount shall be considered to
15 be premium pay.

16 “(2) LIMITATION ON OVERTIME PAY TO AN EM-
17 PLOYEE.—An employee of the Board may not re-
18 ceive overtime pay under paragraph (1), for work
19 performed in a calendar year, in an amount that ex-
20 ceeds 15 percent of the annual rate of basic pay of
21 the employee for such calendar year.

22 “(3) BASIC PAY DEFINED.—In this subsection,
23 the term ‘basic pay’ includes any applicable locality-
24 based comparability payment under section 5304 of
25 title 5 (or similar provision of law) and any special

1 rate of pay under section 5305 of title 5 (or similar
2 provision of law).

3 “(4) ANNUAL REPORT.—Not later than Janu-
4 ary 31, 2001, and annually thereafter, the Board
5 shall transmit to the Senate Committee on Com-
6 merce, Science and Transportation and the House
7 Transportation and Infrastructure a report identi-
8 fying the total amount of overtime payments made
9 under this subsection in the preceding fiscal year.”.

10 **SEC. 5. RECORDERS.**

11 (a) COCKPIT VIDEO RECORDINGS.—Section 1114(c)
12 is amended—

13 (1) by striking “VOICE” in the subsection head-
14 ing;

15 (2) by striking “cockpit voice recorder” in para-
16 graphs (1) and (2) and inserting “cockpit voice or
17 video recorder”; and

18 (3) by inserting “or any written depiction of
19 visual information” after “transcript” in the second
20 sentence of paragraph (1).

21 (b) SURFACE VEHICLE RECORDINGS AND TRAN-
22 SCRIPTS.—

23 (1) IN GENERAL.—Section 1114 is amended—
24 (A) by redesignating subsections (d) and
25 (e) as subsections (e) and (f), respectively; and

1 (B) by inserting after subsection (e) the
2 following:

3 "(d) SURFACE VEHICLE RECORDINGS AND TRAN-
4 SCRIPTS.—

5 “(1) CONFIDENTIALITY OF RECORDINGS.—The
6 Board may not disclose publicly any part of a sur-
7 face vehicle voice or video recorder recording or
8 transcript of oral communications by or among driv-
9 ers, train employees, or other operating employees
10 responsible for the movement and direction of the
11 vehicle or vessel, or between such operating employ-
12 ees and company communication centers, related to
13 an accident investigated by the Board. However, the
14 Board shall make public any part of a transcript or
15 any written depiction of visual information that the
16 Board decides is relevant to the accident—

17 “(A) if the Board holds a public hearing
18 on the accident, at the time of the hearing; or

19 “(B) if the Board does not hold a public
20 hearing, at the time a majority of the other fac-
21 tual reports on the accident are placed in the
22 public docket.

23 “(2) REFERENCES TO INFORMATION IN MAKING
24 SAFETY RECOMMENDATIONS.—This subsection does
25 not prevent the Board from referring at any time to

1 voice or video recorder information in making safety
2 recommendations.”.

3 (2) CONFORMING AMENDMENT.—The first sen-
4 tence of section 1114(a) is amended by striking
5 “and (e)” and inserting “(d), and (f)”.

6 (c) DISCOVERY AND USE OF COCKPIT AND SURFACE
7 VEHICLE RECORDINGS AND TRANSCRIPTS.—

8 (1) IN GENERAL.—Section 1154 is amended—
9 (A) by striking the section heading and in-
10 serting the following:

11 **“§ 1154. Discovery and use of cockpit and surface ve-
12 hicle recordings and transcripts”;**

13 (B) by striking “cockpit voice recorder”
14 each place it appears in subsection (a) and in-
15 serting “cockpit or surface vehicle recorder”;

16 (C) by striking “section 1114(e)” each
17 place it appears in subsection (a) and inserting
18 “section 1114(e) or 1114(d)”;

19 (D) by adding at the end the following:

20 “(6) In this subsection:

21 “(A) RECORDER.—The term ‘recorder’
22 means a voice or video recorder.

23 “(B) TRANSCRIPT.—The term ‘transcript’
24 includes any written depiction of visual infor-
25 mation obtained from a video recorder.”.

“1154. Discovery and use of cockpit and surface vehicle recordings and transcripts.”.

5 SEC. 6. PRIORITY OF INVESTIGATIONS.

6 (a) IN GENERAL.—Section 1131(a)(2) is amended—
7 (1) by striking “(2) An investigation” and in-
8 serting

9 “(2)(A) Subject to the requirements of this
10 paragraph, an investigation”; and

11 (2) by adding at the end the following:

12 “(B) If the Attorney General, in consulta-
13 tion with the Chairman of the Board, deter-
14 mines and notifies the Board that cir-
15 cumstances reasonably indicate that the acci-
16 dent may have been caused by an intentional
17 criminal act, the Board shall relinquish inves-
18 tigative priority to the Federal Bureau of Inves-
19 tigation. The relinquishment of investigative
20 priority by the Board shall not otherwise affect
21 the authority of the Board to continue its inves-
22 tigation under this section.

23 “(C) If a Federal law enforcement agency
24 suspects and notified the Board that an acci-

1 dent being investigated by the Board under
2 subparagraph (A), (B), (C), or (D) of para-
3 graph (1) may have been caused by an inten-
4 tional criminal act, the Board, in consulta-
5 tion with the law enforcement agency, shall take
6 necessary actions to ensure that evidence of the
7 criminal act is preserved.”.

8 (b) REVISION OF 1977 AGREEMENT.—Not later than
9 1 year the date of the enactment of this Act, the National
10 Transportation Safety Board and the Federal Bureau of
11 Investigation shall revise their 1977 agreement on the in-
12 vestigation of accidents to take into account the amend-
13 ments made by this Act.

14 **SEC. 7. PUBLIC AIRCRAFT INVESTIGATION CLARIFICATION.**

15 Section 1131(d) is amended by striking “1134(b)(2)”
16 and inserting “1134 (a), (b), (d), and (f)”.

17 **SEC. 8. MEMORANDUM OF UNDERSTANDING.**

18 Not later than 1 year after the date of the enactment
19 of this Act, the National Transportation Safety Board and
20 the United States Coast Guard shall revise their Memo-
21 randum of Understanding governing major marine
22 accidents—

23 (1) to redefine or clarify the standards used to
24 determine when the National Transportation Safety
25 Board will lead an investigation; and

4 SEC. 9. TRAVEL BUDGETS.

5 The Chairman of the National Transportation Safety
6 Board shall establish annual fiscal year budgets for non-
7 accident-related travel expenditures for Board members,
8 and submit to the Senate Committee on Commerce,
9 Science, and Transportation and to the House of Rep-
10 resentatives Committee on Transportation and Infrastruc-
11 ture an annual report detailing the non-accident-related
12 travel of each Board member. The report shall include sep-
13 arate accounting for foreign and domestic travel, including
14 any personnel or other expenses associated with that
15 travel.

16 SEC. 10. CHIEF FINANCIAL OFFICER.

17 Section 1111 is amended—

18 (1) by redesignating subsection (h) as sub-
19 section (i); and

20 (2) by inserting after subsection (g) the fol-
21 lowing:

22 “(h) CHIEF FINANCIAL OFFICER.—The Chairman
23 shall designate an officer or employee of the Board as the
24 Chief Financial Officer. The Chief Financial Officer
25 shall—

1 “(1) report directly to the Chairman on financial
2 management and budget execution;

3 “(2) direct, manage, and provide policy guidance and
4 oversight on financial management and property and inventory control; and

5 “(3) review the fees, rents, and other charges
6 imposed by the Board for services and things of
7 value it provides, and suggest appropriate revisions
8 to those charges to reflect costs incurred by the
9 Board in providing those services and things of
10 value.”.

11 **12 SEC. 11. IMPROVED AUDIT PROCEDURES.**

13 The National Transportation Safety Board shall develop and implement comprehensive internal audit controls for its financial programs based on the findings and recommendations of the private sector audit firm contracted into by the Board in March, 2000. The improved internal audit controls shall, at a minimum, address Board asset management systems, including systems for accounting management, debt collection, travel, and property and inventory management and control.

14 **22 SEC. 12. AUTHORITY OF THE INSPECTOR GENERAL.**

15 (a) IN GENERAL.—Subchapter III of chapter 11 of subtitle II is amended by adding at the end the following:

1 **“§ 1137. Authority of the Inspector General**

2 “(a) IN GENERAL.—The Inspector General of the
3 Department of Transportation, in accordance with the
4 mission of the Inspector General to prevent and detect
5 fraud and abuse, shall have authority to review only the
6 financial management and business operations of the Na-
7 tional Transportation Safety Board, including internal ac-
8 counting and administrative control systems, to determine
9 compliance with applicable Federal laws, rules, and regu-
10 lations.

11 “(b) DUTIES.—In carrying out this section, the In-
12 spector General shall—

13 “(1) keep the Chairman of the Board and Con-
14 gress fully and currently informed about problems
15 relating to administration of the internal accounting
16 and administrative control systems of the Board;

17 “(2) issue findings and recommendations for
18 actions to address such problems; and

19 “(3) report periodically to Congress on any
20 progress made in implementing actions to address
21 such problems.

22 “(c) ACCESS TO INFORMATION.—In carrying out this
23 section, the Inspector General may exercise authorities
24 granted to the Inspector General under subsections (a)
25 and (b) of section 6 of the Inspector General Act of 1978
26 (5 U.S.C. App.).

1 “(d) REIMBURSEMENT.—The Inspector General shall
2 be reimbursed by the Board for the costs associated with
3 carrying out activities under this section.”.

4 (b) CONFORMING AMENDMENT.—The subchapter
5 analysis for such subchapter is amended by adding at the
6 end the following:

“1137. Authority of the Inspector General.”.

7 **SEC. 13. AUTHORIZATION OF APPROPRIATIONS.**

8 Section 1118 is amended to read as follows:

9 **“§ 1118. Authorization of appropriations**

10 “(a) IN GENERAL.—There are authorized to be ap-
11 propriated for the purposes of this chapter \$57,000,000
12 for fiscal year 2000, \$65,000,000 for fiscal year 2001,
13 \$72,000,000 for fiscal year 2002, and \$79,000,000 for fis-
14 cal year 2003, such sums to remain available until ex-
15 pended.

16 “(b) EMERGENCY FUND.—The Board has an emer-
17 gency fund of \$2,000,000 available for necessary expenses
18 of the Board, not otherwise provided for, for accident in-
19 vestigations. Amounts equal to the amounts expended an-
20 nually out of the fund are authorized to be appropriated
21 to the emergency fund.”.

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