

Calendar No. 762

106TH CONGRESS
2D SESSION

S. 2412

[Report No. 106-386]

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

AUGUST 25, 2000

Reported under authority of the order of the Senate of July 26, 2000, by Mr. McCAIN, without amendment

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,*

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

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

5 (b) REFERENCES.—Except as otherwise specifically
6 provided, whenever in this Act an amendment or repeal
7 is expressed in terms of an amendment to, or repeal of,
8 a section or other provision of law, the reference shall be
9 considered to be made to a section or other provision of
10 title 49, United States Code.

11 **SEC. 2. DEFINITIONS.**

12 Section 1101 is amended to read as follows:

13 **“§ 1101. Definitions**

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

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

20 (a) IN GENERAL.—Section 1113(b)(1)(I) is amended
21 to read as follows:

22 “(I) negotiate and enter into agreements
23 with individuals and private entities and depart-
24 ments, agencies, and instrumentalities of the
25 Government, State and local governments, and
26 governments of foreign countries for the provi-

1 sion of facilities, accident-related services or
2 training in accident investigation techniques,
3 and require that such entities provide appropriate
4 consideration for the reasonable costs of
5 any facilities, services, or training provided by
6 the Board.”.

7 (b) DEPOSIT OF AMOUNTS.—

8 (1) Section 1113(b)(2) is amended—

9 (A) by inserting “as offsetting collections”
10 after “to be credited”; and
11 (B) by adding after “Board.” the following: “The Board shall maintain an annual
12 record of collections received under paragraph
13 (1)(I) of this subsection.”.

14 (2) Section 1114(a) is amended—

15 (A) by inserting “(1)” before “Except”;
16 and

17 (B) by adding at the end thereof the following:

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

4 SEC. 4. OVERTIME PAY.

5 Section 1113 is amended by adding at the end the
6 following:

7 "(g) OVERTIME PAY.—

“(1) IN GENERAL.—Subject to the requirements of this section and notwithstanding paragraphs (1) and (2) of section 5542(a) of title 5, for an employee of the Board whose basic pay is at a rate which equals or exceeds the minimum rate of basic pay for GS-10 of the General Schedule, the Board may establish an overtime hourly rate of pay for the employee with respect to work performed at the scene of an accident (including travel to or from the scene) and other work that is critical to an accident investigation in an amount equal to one and one-half times the hourly rate of basic pay of the employee. All of such amount shall be considered to be premium pay.

22 “(2) LIMITATION ON OVERTIME PAY TO AN EM-
23 PLOYEE.—An employee of the Board may not re-
24 ceive overtime pay under paragraph (1), for work
25 performed in a calendar year, in an amount that ex-

1 ceeds 15 percent of the annual rate of basic pay of
2 the employee for such calendar year.

3 “(3) BASIC PAY DEFINED.—In this subsection,
4 the term ‘basic pay’ includes any applicable locality-
5 based comparability payment under section 5304 of
6 title 5 (or similar provision of law) and any special
7 rate of pay under section 5305 of title 5 (or similar
8 provision of law).

9 “(4) ANNUAL REPORT.—Not later than Janu-
10 ary 31, 2001, and annually thereafter, the Board
11 shall transmit to the Senate Committee on Com-
12 merce, Science, and Transportation and the House
13 Transportation and Infrastructure Committee a re-
14 port identifying the total amount of overtime pay-
15 ments made under this subsection in the preceding
16 fiscal year.”.

17 **SEC. 5. RECORDERS.**

18 (a) COCKPIT VIDEO RECORDINGS.—Section 1114(c)

19 is amended—

20 (1) by striking “VOICE” in the subsection head-
21 ing;

22 (2) by striking “cockpit voice recorder” in para-
23 graphs (1) and (2) and inserting “cockpit voice or
24 video recorder”; and

4 (b) SURFACE VEHICLE RECORDINGS AND TRAN-
5 SCRIPTS.—

6 (1) IN GENERAL.—Section 1114 is amended—
7 (A) by redesignating subsections (d) and
8 (e) as subsections (e) and (f), respectively; and
9 (B) by inserting after subsection (e) the
10 following:

11 “(d) SURFACE VEHICLE RECORDINGS AND TRAN-
12 SCRIPTS.—

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

1 “(A) if the Board holds a public hearing
2 on the accident, at the time of the hearing; or
3 “(B) if the Board does not hold a public
4 hearing, at the time a majority of the other fac-
5 tual reports on the accident are placed in the
6 public docket.

7 “(2) REFERENCES TO INFORMATION IN MAKING
8 SAFETY RECOMMENDATIONS.—This subsection does
9 not prevent the Board from referring at any time to
10 voice or video recorder information in making safety
11 recommendations.”.

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

15 (c) DISCOVERY AND USE OF COCKPIT AND SURFACE
16 VEHICLE RECORDINGS AND TRANSCRIPTS.—

17 (1) IN GENERAL.—Section 1154 is amended—
18 (A) by striking the section heading and in-
19 serting the following:

20 **“§ 1154. Discovery and use of cockpit and surface ve-
21 hicle recordings and transcripts;**

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

1 (C) by striking “section 1114(e)” each
2 place it appears in subsection (a) and inserting
3 “section 1114(c) or 1114(d)”; and

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

5 “(6) In this subsection:

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

15 SEC. 6. PRIORITY OF INVESTIGATIONS.

16 (a) IN GENERAL.—Section 1131(a)(2) is amended—

17 (1) by striking "(2) An investigation" and in-
18 serting:

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

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

22 “(B) If the Attorney General, in consulta-
23 tion with the Chairman of the Board, deter-
24 mines and notifies the Board that cir-

1 cumstances reasonably indicate that the acci-
2 dent may have been caused by an intentional
3 criminal act, the Board shall relinquish inves-
4 tigative priority to the Federal Bureau of Inves-
5 tigation. The relinquishment of investigative
6 priority by the Board shall not otherwise affect
7 the authority of the Board to continue its inves-
8 tigation under this section.

9 “(C) If a Federal law enforcement agency
10 suspects and notified the Board that an acci-
11 dent being investigated by the Board under
12 subparagraph (A), (B), (C), or (D) of para-
13 graph (1) may have been caused by an inten-
14 tional criminal act, the Board, in consultation
15 with the law enforcement agency, shall take
16 necessary actions to ensure that evidence of the
17 criminal act is preserved.”.

18 (b) REVISION OF 1977 AGREEMENT.—Not later than
19 1 year the date of the enactment of this Act, the National
20 Transportation Safety Board and the Federal Bureau of
21 Investigation shall revise their 1977 agreement on the in-
22 vestigation of accidents to take into account the amend-
23 ments made by this Act.

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

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

4 **SEC. 8. MEMORANDUM OF UNDERSTANDING.**

5 Not later than 1 year after the date of the enactment
6 of this Act, the National Transportation Safety Board and
7 the United States Coast Guard shall revise their Memo-
8 randum of Understanding governing major marine
9 accidents—

10 (1) to redefine or clarify the standards used to
11 determine when the National Transportation Safety
12 Board will lead an investigation; and

13 (2) to develop new standards to determine when
14 a major marine accident involves significant safety
15 issues relating to Coast Guard safety functions.

16 **SEC. 9. TRAVEL BUDGETS.**

17 The Chairman of the National Transportation Safety
18 Board shall establish annual fiscal year budgets for non-
19 accident-related travel expenditures for Board members,
20 and submit to the Senate Committee on Commerce,
21 Science, and Transportation and to the House of Rep-
22 resentatives Committee on Transportation and Infrastruc-
23 ture an annual report detailing the non-accident-related
24 travel of each Board member. The report shall include sep-
25 arate accounting for foreign and domestic travel, including

1 any personnel or other expenses associated with that
2 travel.

3 **SEC. 10. CHIEF FINANCIAL OFFICER.**

4 Section 1111 is amended—

5 (1) by redesignating subsection (h) as sub-
6 section (i); and

7 (2) by inserting after subsection (g) the fol-
8 lowing:

9 “(h) CHIEF FINANCIAL OFFICER.—The Chairman
10 shall designate an officer or employee of the Board as the
11 Chief Financial Officer. The Chief Financial Officer
12 shall—

13 (1) report directly to the Chairman on finan-
14 cial management and budget execution;

15 (2) direct, manage, and provide policy guid-
16 ance and oversight on financial management and
17 property and inventory control; and

18 (3) review the fees, rents, and other charges
19 imposed by the Board for services and things of
20 value it provides, and suggest appropriate revisions
21 to those charges to reflect costs incurred by the
22 Board in providing those services and things of
23 value.”.

1 SEC. 11. IMPROVED AUDIT PROCEDURES.

2 The National Transportation Safety Board shall de-
3 velop and implement comprehensive internal audit controls
4 for its financial programs based on the findings and rec-
5 ommendations of the private sector audit firm contract en-
6 tered into by the Board in March, 2000. The improved
7 internal audit controls shall, at a minimum, address Board
8 asset management systems, including systems for account-
9 ing management, debt collection, travel, and property and
10 inventory management and control.

11 SEC. 12. AUTHORITY OF THE INSPECTOR GENERAL.

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

14 “§ 1137. Authority of the Inspector General

15 “(a) IN GENERAL.—The Inspector General of the
16 Department of Transportation, in accordance with the
17 mission of the Inspector General to prevent and detect
18 fraud and abuse, shall have authority to review only the
19 financial management and business operations of the Na-
20 tional Transportation Safety Board, including internal ac-
21 counting and administrative control systems, to determine
22 compliance with applicable Federal laws, rules, and regu-
23 lations.

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

1 “(1) keep the Chairman of the Board and Con-
2 gress fully and currently informed about problems
3 relating to administration of the internal accounting
4 and administrative control systems of the Board;

5 “(2) issue findings and recommendations for
6 actions to address such problems; and

7 “(3) report periodically to Congress on any
8 progress made in implementing actions to address
9 such problems.

10 “(c) ACCESS TO INFORMATION.—In carrying out this
11 section, the Inspector General may exercise authorities
12 granted to the Inspector General under subsections (a)
13 and (b) of section 6 of the Inspector General Act of 1978
14 (5 U.S.C. App.).

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

18 (b) CONFORMING AMENDMENT.—The subchapter
19 analysis for such subchapter is amended by adding at the
20 end the following:

“1137. Authority of the Inspector General.”.

21 **SEC. 13. AUTHORIZATION OF APPROPRIATIONS.**

22 Section 1118 is amended to read as follows:

23 **“§ 1118. Authorization of appropriations**

24 “(a) IN GENERAL.—There are authorized to be ap-
25 propriated for the purposes of this chapter \$57,000,000

1 for fiscal year 2000, \$65,000,000 for fiscal year 2001,
2 \$72,000,000 for fiscal year 2002, and \$79,000,000 for fis-
3 cal year 2003, such sums to remain available until ex-
4 pended.

5 “(b) EMERGENCY FUND.—The Board has an emer-
6 gency fund of \$2,000,000 available for necessary expenses
7 of the Board, not otherwise provided for, for accident in-
8 vestigations. Amounts equal to the amounts expended an-
9 nually out of the fund are authorized to be appropriated
10 to the emergency fund.”.

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