

NATIONAL CONSTRUCTION SAFETY TEAM
ENHANCEMENT ACT OF 2023

SEPTEMBER 1, 2023.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. LUCAS, from the Committee on Science, Space, and Technology,
submitted the following

R E P O R T

[To accompany H.R. 4143]

[Including cost estimate of the Congressional Budget Office]

The Committee on Science, Space, and Technology, to whom was referred the bill (H.R. 4143) to amend the National Construction Safety Team Act to enable the National Institute of Standards and Technology to investigate structures other than buildings to inform the development of engineering standards, best practices, and building codes related to such structures, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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PURPOSE AND SUMMARY

H.R. 4143 expands the authority of the National Institute of Standards and Technology’s (NIST) National Construction Safety Team (NCST) to investigate failures of infrastructure and structures other than buildings. This authority would include levees, pedestrian bridges, and other structures where the performance of those constructions significantly impacts the safety and resilience of U.S. communities. It also authorizes appropriations to carry out this additional authority at \$5 million annually for fiscal years 2024 through 2027.

BACKGROUND AND NEED FOR LEGISLATION

Signed into law in the aftermath of the September 11 Attacks, The National Construction Safety Team (NCST) Act (Public Law 107–231) authorizes NIST to dispatch experts to investigate major building disasters. These authorities are modeled after those of the National Transportation Safety Board (NTSB) for investigating transportation accidents. NCST investigations are aimed to inform engineering standards and codes to prevent future failures from occurring. NIST works closely with other federal agencies, as well as state and local governments, to ensure their investigations do not interfere with other activities.

While many federal agencies investigate failures related to transportation, fires, and buildings; no federal agency investigates failures of general infrastructure, such as levees or dikes, to inform engineering codes and guidelines. NIST has tremendous expertise that could greatly improve our efforts to address structural failures of all kinds, but they currently lack the authorities to conduct on-site investigations of many types of major infrastructure when they fail.

H.R. 4143 follows a recommendation from the NCST Advisory Committee in its fiscal year 2022 report. Importantly, these newly authorized investigations are not criminal investigations or investigations leading to an enforcement action; the point of NIST investigations is to learn from major infrastructure failures to inform engineering standards and building codes.

LEGISLATIVE HISTORY

H.R. 4143 was introduced on June 15, 2023, by Representative Lofgren (D–CA) and Representative Lucas (R–OK). Additional co-sponsors include Representatives Bonamici (OR), Obernolte (CA), Stevens (MD), Tenney (NY), Casten (IL), Kean (NJ), Caraveo (CO), Ross (NC), Sorensen (IL), Lieu (CA), Foushee (NC), Bowman (NY), Jackson (NC), Sykes (OH), and Lee (PA).

SECTION-BY-SECTION

Section 1. Short title

The short title of this legislation is “National Construction Safety Team Enhancements Act of 2023”.

Section 2. National Construction Safety Team Enhancement

This section amends the NCST Act to expand the safety team’s authority to investigate failures of infrastructure and structures

other than buildings. It also authorizes appropriations to carry out this additional authority at \$5 million annually for fiscal years 2024 through 2027.

COMMITTEE HEARINGS

On May 10, 2023, the Committee held a hearing entitled *An Overview of the Budget Proposal for the National Institute of Standards and Technology for Fiscal Year 2024*, in which Dr. Laurie Locascio, the Director of the National Institute of Standards and Technology (NIST) and the Under Secretary of Commerce for Standards and Technology testified. During the hearing, Members and Dr. Locascio discussed the NIST's work to support construction safety and resilience against flooding.

COMMITTEE VIEWS

The intent of this legislation is to allow the National Construction Safety Team to fully leverage its unique expertise to contribute to what can be learned from failures of infrastructure to inform engineering standards and building codes.

COMMITTEE CONSIDERATION

On June 21, 2023, the Committee met in open session and ordered reported favorably the bill, H.R. 4143, without amendment, by a recorded vote of 30 yeas to 0 nays, a quorum being present.

ROLL CALL VOTES

Clause 3(b) of rule XIII requires the Committee to list the record votes on the motion to report legislation and amendments thereto. The following reflects the record votes taken during the Committee consideration:

House Committee on Science, Space, and Technology
118th Congress
Full Committee Markup

Bill # H.R. 4143

Motion to report H.R. 4143 to the House

Majority	Aye	No	Present
Frank Lucas, Oklahoma	1		
Bill Posey, Florida			
Randy Weber, Texas	1		
Brian Babin, Texas	1		
Jim Baird, Indiana	1		
Daniel Webster, Florida			
Mike Garcia, California			
Stephanie Bice, Oklahoma			
Jay Obernolte, California			
Chuck Fleischmann, Tennessee			
Darrell Issa, California	1		
Rick Crawford, Arkansas	1		
Claudia Tenney, New York			
Ryan Zinke, Montana			
Scott Franklin, Florida	1		
Dale Strong, Alabama	1		
Max Miller, Ohio	1		
Rich McCormick, Georgia	1		
Mike Collins, Georgia	1		
Brandon Williams, New York	1		
Tom Kean, New Jersey	1		
Minority	Aye	No	Present
Zoe Lofgren, California	1		
Suzanne Bonamici, Oregon	1		
Haley Stevens, Michigan	1		
Jamaal Bowman, New York	1		
Deborah Ross, New Carolina	1		
Eric Sorensen, Illinois	1		
Andrea Salinas, Oregon	1		
Val Foushee, North Carolina	1		
Kevin Mullin, California	1		
Jeff Jackson, North Carolina	1		
Emilia Sykes, Ohio	1		
Maxwell Frost, Florida	1		
Yadira Caraveo, Colorado	1		
Summer Lee, Pennsylvania	1		
Jennifer McClellan, Virginia			
Ted Lieu, California	1		
Sean Casten, Illinois	1		
Paul Tonko	1		
Total	30	0	

Date: 6/22/23

Result?	Agreed To: [X]		
	Not Agreed To: []		
	Withdrawn: []		
Voice Vote	Ayes	Nays	Present
	30	0	

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

The Committee finds that H.R. 4143 does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (Public Law 104–1).

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS
OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X, the Committee’s oversight findings and recommendations are reflected in the descriptive portions of this report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause (3)(c)(4) of rule XIII, the goal of H.R. 4143 is to expand the authority of the National Institute of Standards and Technology’s (NIST) National Construction Safety Team’s (NCST) to investigate failures of infrastructure and structures other than buildings. This authority would include levees, pedestrian bridges, and other structures where the performance of those constructions significantly impact the safety and resilience of U.S. communities.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII, the Committee finds that no provision of H.R. 4143 establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of Public Law 111–139 or identified in the most recent Catalog of Federal Domestic Assistance.

FEDERAL ADVISORY COMMITTEE ACT

The Committee finds that the legislation does not establish or authorize the establishment of an advisory committee within the definition of section 5(b) of the Federal Advisory Committee Act.

UNFUNDED MANDATE STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

EARMARK IDENTIFICATION

Pursuant to clauses 9(e), 9(f), and 9(g) of rule XXI, the Committee finds that H.R. 4143 does not include any congressional earmarks, limited tax benefits, or limited tariff benefits.

COMMITTEE COST ESTIMATE

Pursuant to clause 3(d)(1) of rule XIII, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY,
AND TAX EXPENDITURES

Pursuant to clause 3(c)(2) of rule XIII, the Committee finds that H.R. 4143 would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

Pursuant to clause 3(c)(3) of rule XII and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 2988 from the Director of the Congressional budget Office:

H.R. 4143, National Construction Safety Team Enhancement Act of 2023 As ordered reported by the House Committee on Science, Space, and Technology on June 21, 2023			
By Fiscal Year, Millions of Dollars	2023	2023-2028	2023-2033
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	0	19	20
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Statutory pay-as-you-go procedures apply? No	
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Mandate Effects	
		Contains intergovernmental mandate? No	
		Contains private-sector mandate? No	

H.R. 4143 would authorize the appropriation of \$5 million for each of fiscal years 2024 through 2027 for the National Institute of Standards and Technology to investigate building and structure failures.

The costs of the legislation, detailed in Table 1, fall within budget function 370 (commerce and housing credit).

TABLE 1.—ESTIMATED INCREASES IN SPENDING SUBJECT TO APPROPRIATION UNDER H.R. 4143

	By fiscal year, millions of dollars—						2023–2028
	2023	2024	2025	2026	2027	2028	
Authorization	0	5	5	5	5	0	20
Estimated Outlays	0	2	4	5	5	3	19

Using information about spending patterns from previous investigations and assuming the appropriation of the authorized amounts, CBO estimates that implementing the bill would cost \$19 million over the 2024–2028 period.

The CBO staff contact for this estimate is David Hughes. The estimate was reviewed by Emily Stern, Senior Adviser for Budget Analysis.

PHILLIP L. SWAGEL,
Director, Congressional Budget Office.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

NATIONAL CONSTRUCTION SAFETY TEAM ACT

* * * * *

SEC. 2. NATIONAL CONSTRUCTION SAFETY TEAMS.

(a) **ESTABLISHMENT.**—The Director of the National Institute of Standards and Technology (in this Act referred to as the “Director”) is authorized to establish National Construction Safety Teams (in this Act referred to as a “Team”) for deployment after events causing the failure of a building or [buildings] *structure* that has resulted in substantial loss of life or that posed significant potential for substantial loss of life. *In instances in which the failure of the building or structure is the proper subject for investigation by another Federal agency, the Director shall defer to the authority of such agency.* To the maximum extent practicable, the Director shall establish and deploy a Team within 48 hours after such an event. The Director shall promptly publish in the Federal Register notice of the establishment of each Team.

(b) **PURPOSE OF INVESTIGATION; DUTIES.**—

(1) **PURPOSE.**—The purpose of investigations by Teams is to improve the safety and structural integrity of [buildings] *the built environment* in the United States.

(2) **DUTIES.**—A Team shall—

(A) establish the likely technical cause or causes of the building *or structure* failure;

(B) evaluate the technical aspects of evacuation and emergency response procedures;

(C) recommend, as necessary, specific improvements to [building standards, codes, and practices] *engineering standards, practices, and building codes* based on the findings made pursuant to subparagraphs (A) and (B); and

(D) recommend any research and other appropriate actions needed to improve the structural safety of [buildings] *the built environment*, and improve evacuation and emergency response procedures, based on the findings of the investigation.

(c) **PROCEDURES.**—

(1) **DEVELOPMENT.**—Not later than 3 months after the date of the enactment of this Act, the Director, in consultation with the United States Fire Administration and other appropriate Federal agencies, shall develop procedures for the establishment and deployment of Teams. The Director shall update such procedures as appropriate. Such procedures shall include provisions—

(A) regarding conflicts of interest related to service on the Team;

(B) defining the circumstances under which the Director will establish and deploy a Team;

(C) prescribing the appropriate size of Teams;

(D) guiding the disclosure of information under section 7;

(E) guiding the conduct of investigations under this Act, including procedures for providing written notice of inspection authority under section 4(a) and for ensuring compliance with any other applicable law;

(F) identifying and prescribing appropriate conditions for the provision by the Director of additional resources and services Teams may need;

(G) to ensure that investigations under this Act do not impede and are coordinated with any search and rescue efforts being undertaken at the site of the building *or structure* failure;

(H) for regular briefings of the public on the status of the investigative proceedings and findings;

(I) guiding the Teams in moving and preserving evidence as described in section 4 (a)(4), (b)(2), and (d)(4);

(J) providing for coordination with Federal, State, and local entities that may sponsor research or investigations of building *or structure* failures, including research conducted under the Earthquake Hazards Reduction Act of 1977 *or the National Windstorm Impact Reduction Act of 2004*; and

(K) regarding such other issues as the Director considers appropriate.

(2) PUBLICATION.—The Director shall publish promptly in the Federal Register final procedures, and subsequent updates thereof, developed under paragraph (1).

* * * * *

SEC. 4. AUTHORITIES.

(a) ENTRY AND INSPECTION.—In investigating a [building] *building or structure* failure under this Act, members of a Team, and any other person authorized by the Director to support a Team, on display of appropriate credentials provided by the Director and written notice of inspection authority, may—

(1) enter property where a [building] *building or structure* failure being investigated has occurred, or where [building] components, materials, and artifacts with respect to the [building] *building or structure* failure are located, and take action necessary, appropriate, and reasonable in light of the nature of the property to be inspected to carry out the duties of the Team under section 2(b)(2) (A) and (B);

(2) during reasonable hours, inspect any record (including any design, construction, or maintenance record), process, or facility related to the investigation;

(3) inspect and test any [building] components, materials, and artifacts related to the [building] *building or structure* failure; and

(4) move such records, components, materials, and artifacts as provided by the procedures developed under section 2(c)(1).

(5) CIVIL SUITS.—Where practicable, a Team shall cooperate with civil litigants without compromising a Team’s investigation or the evidence preservation activities as described in this section.

(b) AVOIDING UNNECESSARY INTERFERENCE AND PRESERVING EVIDENCE.—An inspection, test, or other action taken by a Team under this section shall be conducted in a way that—

(1) does not interfere unnecessarily with services provided by the owner or operator of the [building] components, materials, or artifacts, property, records, process, or facility; and

(2) to the maximum extent feasible, preserves evidence related to the [building] *building or structure* failure, consistent with the ongoing needs of the investigation.

(c) COORDINATION.—

(1) WITH SEARCH AND RESCUE EFFORTS.—A Team shall not impede, and shall coordinate its investigation with, any search and rescue efforts being undertaken at the site of the [building] *building or structure* failure.

(2) WITH OTHER RESEARCH.—A Team shall coordinate its investigation, to the extent practicable, with qualified researchers who are conducting engineering or scientific (including social science) research relating to the [building] *building or structure* failure.

(3) MEMORANDA OF UNDERSTANDING.—The National Institute of Standards and Technology shall enter into a memorandum of understanding with each Federal agency that may conduct or sponsor a related investigation, providing for coordination of investigations.

(4) WITH STATE AND LOCAL AUTHORITIES.—A Team shall cooperate with State and local authorities carrying out any activities related to a Team’s investigation.

(d) INVESTIGATION PRIORITIES.—

(1) IN GENERAL.—Except as provided in paragraph (2) or (3), a Team investigation shall have priority over any other investigation of any other Federal agency or any civil suit or civil action.

(2) NATIONAL TRANSPORTATION SAFETY BOARD.—If the National Transportation Safety Board is conducting an investigation related to an investigation of a Team, the National Transportation Safety Board investigation shall have priority over the Team investigation. Such priority shall not otherwise affect the authority of the Team to continue its investigation under this Act.

(3) CRIMINAL ACTS.—If the Attorney General, in consultation with the Director, determines, and notifies the Director, that circumstances reasonably indicate that the [building] *building or structure* failure being investigated by a Team may have been caused by a criminal act, the Team shall relinquish investigative priority to the appropriate law enforcement agency. The relinquishment of investigative priority by the Team shall not otherwise affect the authority of the Team to continue its investigation under this Act.

(4) PRESERVATION OF EVIDENCE.—If a Federal law enforcement agency suspects and notifies the Director that a [building] *building or structure* failure being investigated by a Team

under this Act may have been caused by a criminal act, the Team, in consultation with the Federal law enforcement agency, shall take necessary actions to ensure that evidence of the criminal act is preserved.

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SEC. 7. DISCLOSURE OF INFORMATION.

(a) **GENERAL RULE.**—Except as otherwise provided in this section, a copy of a record, information, or investigation submitted or received by a Team shall be made available to the public on request and at reasonable cost.

(b) **EXCEPTIONS.**—Subsection (a) does not require the release of—

(1) information described by section 552(b) of title 5, United States Code, or protected from disclosure by any other law of the United States; or

(2) information described in subsection (a) by the National Institute of Standards and Technology or by a Team until the report required by section 8 is issued.

(c) **PROTECTION OF VOLUNTARY SUBMISSION OF INFORMATION.**—Notwithstanding any other provision of law, a Team, the National Institute of Standards and Technology, and any agency receiving information from a Team or the National Institute of Standards and Technology, shall not disclose voluntarily provided safety-related information if that information is not directly related to the building *or structure* failure being investigated and the Director finds that the disclosure of the information would inhibit the voluntary provision of that type of information.

(d) **PUBLIC SAFETY INFORMATION.**—A Team and the National Institute of Standards and Technology shall not publicly release any information it receives in the course of an investigation under this Act if the Director finds that the disclosure of that information might jeopardize public safety.

SEC. 8. NATIONAL CONSTRUCTION SAFETY TEAM REPORT.

Not later than 90 days after completing an investigation, a Team shall issue a public report which includes—

(1) an analysis of the likely technical cause or causes of the building *or structure* failure investigated;

(2) any technical recommendations for changes to or the establishment of evacuation and emergency response procedures;

(3) any recommended specific improvements to building [standards, codes, and practices] *engineering standards, practices, and building codes*; and

(4) recommendations for research and other appropriate actions needed to help prevent future building *and structure* failures.

SEC. 9. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY ACTIONS.

After the issuance of a public report under section 8, the National Institute of Standards and Technology shall comprehensively review the report and, working with the United States Fire Administration and other appropriate Federal and non-Federal agencies and organizations—

(1) conduct, or enable or encourage the conducting of, appropriate research recommended by the Team; and

(2) promote (consistent with existing procedures for the establishment of [building standards, codes, and practices] *engineering standards, practices, and building codes*) the appropriate adoption by the Federal Government, and encourage the appropriate adoption by other agencies and organizations, of the recommendations of the Team with respect to—

(A) technical aspects of evacuation and emergency response procedures;

(B) specific improvements to [building standards, codes, and practices] *engineering standards, practices, and building codes*; and

(C) other actions needed to help prevent future building failures.

* * * * *

SEC. 14. CONSTRUCTION.

Nothing in this Act shall be construed to confer any authority on the National Institute of Standards and Technology to require the adoption of [building standards, codes, or practices] *engineering standards, practices, and building codes*.

[SEC. 15. AUTHORIZATION OF APPROPRIATIONS.

[The National Institute of Standards and Technology is authorized to use funds otherwise authorized by law to carry out this Act.]

SEC. 15. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Director of the National Institute of Standards and Technology \$5,000,000 for each of fiscal years 2024 through 2027.

