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107TH CONGRESS, 2d Session | HOUSE OF REPRESENTATIVES | REPORT 107–470

NATIONAL TRANSPORTATION SAFETY BOARD REAUTHORIZATION ACT OF 2002

MAY 16, 2002.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. YOUNG of Alaska, from the Committee on Transportation and Infrastructure, submitted the following

R E P O R T

[To accompany H.R. 4466]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 4466) to amend title 49, United States Code, to authorize appropriations for the National Transportation Safety Board for fiscal years 2003, 2004, and 2005, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Transportation Safety Board Reauthorization Act of 2002".

TITLE I—NTSB REAUTHORIZATION

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

(a) FISCAL YEARS 2003–2005.—Section 1118(a) of title 49, United States Code, is amended—

(1) by striking "and"; and

(2) by striking "such sums to" and inserting the following: "$73,325,000 for fiscal year 2003, $84,999,000 for fiscal year 2004, and $89,687,000 for fiscal year 2005. Such sums shall".

(b) EMERGENCY FUND.—Section 1118(b) of such title is amended by striking the second sentence and inserting the following: "In addition, there are authorized to be appropriated such sums as may be necessary to increase the fund to, and maintain the fund at, a level of not to exceed $6,000,000.".

(c) NTSB ACADEMY.—Section 1118 of such title is amended by adding at the end the following:

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"(c) ACADEMY.—There are authorized to be appropriated to the Board for necessary expenses of the National Transportation Safety Board Academy, not otherwise provided for, $3,347,000 for fiscal year 2003, $4,896,000 for fiscal year 2004, and $4,995,000 for fiscal year 2005. Such sums shall remain available until expended.".

SEC. 102. ACCIDENT AND SAFETY DATA CLASSIFICATION AND PUBLICATION.

Section 1119 of title 49, United States Code, is amended by adding at the end the following:

"(c) APPEALS.—

"(1) NOTIFICATION OF RIGHTS.—In any case in which an employee of the Board determines that an occurrence associated with the operation of an aircraft constitutes an accident, the employee shall notify the owner or operator of that aircraft of the right to appeal that determination to the Board.

"(2) PROCEDURE.—The Board shall establish and publish the procedures for appeals under this subsection.

"(3) LIMITATION ON APPLICABILITY.—This subsection shall not apply in the case of an accident that results in a loss of life.".

SEC. 103. SECRETARY OF TRANSPORTATION'S RESPONSES TO SAFETY RECOMMENDATIONS.

Section 1135(d) of title 49, United States Code, is amended to read as follows:

"(d) REPORTING REQUIREMENTS.—

"(1) ANNUAL SECRETARIAL REGULATORY STATUS REPORTS.—On February 1 of each year, the Secretary shall submit a report to Congress and the Board containing the regulatory status of each significant safety recommendation made by the Board to the Secretary (or to an Administration within the Department). The Secretary shall continue to report on the regulatory status of each such recommendation in the report due on February 1 of subsequent years until final regulatory action is taken on that recommendation or the Secretary (or an Administration within the Department) determines and states in such a report that no action should be taken.

"(2) FAILURE TO REPORT.—If on March 1 of each year the Board has not received the Secretary's report required by this subsection, the Board shall notify the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate of the Secretary's failure to submit the required report.

"(3) SIGNIFICANT SAFETY RECOMMENDATION DEFINED.—For the purposes of this subsection, the term 'significant safety recommendation' means a recommendation included in the Board's 'most wanted list'.

"(4) TERMINATION.—This subsection shall cease to be in effect after the report required to be filed on February 1, 2007, is filed.".

SEC. 104. ASSISTANCE TO FAMILIES OF PASSENGERS INVOLVED IN AIRCRAFT ACCIDENTS.

(a) RELINQUISHMENT OF INVESTIGATIVE PRIORITY.—Section 1136 of title 49, United States Code, is amended by adding at the end the following:

"(j) RELINQUISHMENT OF INVESTIGATIVE PRIORITY.—

"(1) GENERAL RULE.—This section (other than subsection (g)) shall not apply to an aircraft accident if the Board has relinquished investigative priority under section 1131(a)(2)(B) and the Federal agency to which the Board relinquished investigative priority is willing and able to provide assistance to the victims and families of the passengers involved in the accident.

"(2) BOARD ASSISTANCE.—If this section does not apply to an aircraft accident because the Board has relinquished investigative priority with respect to the accident, the Board shall assist, to the maximum extent possible, the agency to which the Board has relinquished investigative priority in assisting families with respect to the accident.".

(b) REVISION OF MOU.—Not later than 1 year after the date of enactment of this Act, the National Transportation Safety Board and the Federal Bureau of Investigation shall revise their 1977 agreement on the investigation of accidents to take into account the amendments made by this section and title II and shall submit a copy of the revised agreement to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

SEC. 105. TECHNICAL AMENDMENTS.

Section 1131(a)(2) of title 49, United States Code, is amended by moving subparagraphs (B) and (C) 4 ems to the left.

SEC. 106. ADVERSE EFFECTS OF CARRY-ON BAGGAGE.

(a) STUDY.—The National Transportation Safety Board shall conduct a study to identify the adverse effects, including passenger injuries or other safety problems,

associated with carry-on baggage stored in overhead bins aboard passenger aircraft and sufficient ways to deal with such problems.

(b) REPORT.—Not later than October 1, 2002, the Board shall report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the results of the study.

TITLE II—RAILROAD FAMILY ASSISTANCE

SEC. 201. ASSISTANCE BY NATIONAL TRANSPORTATION SAFETY BOARD TO FAMILIES OF PASSENGERS INVOLVED IN RAIL PASSENGER ACCIDENTS.

(a) IN GENERAL.—Subchapter III of chapter 11 of title 49, United States Code, is amended by adding at the end the following:

"§ 1138. Assistance to families of passengers involved in rail passenger accidents

"(a) IN GENERAL.—As soon as practicable after being notified of a rail passenger accident within the United States involving a rail passenger carrier and resulting in a major loss of life, the Chairman of the National Transportation Safety Board shall—

"(1) designate and publicize the name and phone number of a director of family support services who shall be an employee of the Board and shall be responsible for acting as a point of contact within the Federal Government for the families of passengers involved in the accident and a liaison between the rail passenger carrier and the families; and

"(2) designate an independent nonprofit organization, with experience in disasters and posttrauma communication with families, which shall have primary responsibility for coordinating the emotional care and support of the families of passengers involved in the accident.

"(b) RESPONSIBILITIES OF THE BOARD.—The Board shall have primary Federal responsibility for—

"(1) facilitating the recovery and identification of fatally injured passengers involved in an accident described in subsection (a); and

"(2) communicating with the families of passengers involved in the accident as to the roles of—

"(A) the organization designated for an accident under subsection (a)(2);

"(B) Government agencies; and

"(C) the rail passenger carrier involved,

with respect to the accident and the post-accident activities.

"(c) RESPONSIBILITIES OF DESIGNATED ORGANIZATION.—The organization designated for an accident under subsection (a)(2) shall have the following responsibilities with respect to the families of passengers involved in the accident:

"(1) To provide mental health and counseling services, in coordination with the disaster response team of the rail passenger carrier involved.

"(2) To take such actions as may be necessary to provide an environment in which the families may grieve in private.

"(3) To meet with the families who have traveled to the location of the accident, to contact the families unable to travel to such location, and to contact all affected families periodically thereafter until such time as the organization, in consultation with the director of family support services designated for the accident under subsection (a)(1), determines that further assistance is no longer needed.

"(4) To arrange a suitable memorial service, in consultation with the families.

"(d) PASSENGER LISTS.—

"(1) REQUESTS FOR PASSENGER LISTS.—

"(A) REQUESTS BY DIRECTOR OF FAMILY SUPPORT SERVICES.—It shall be the responsibility of the director of family support services designated for an accident under subsection (a)(1) to request, as soon as practicable, from the rail passenger carrier involved in the accident a list, which is based on the best available information at the time of the request, of the names of the passengers that were aboard the rail passenger carrier's train involved in the accident. A rail passenger carrier shall use reasonable efforts, with respect to its unreserved trains, and passengers not holding reservations on its other trains, to ascertain the names of passengers aboard a train involved in an accident.

"(B) REQUESTS BY DESIGNATED ORGANIZATION.—The organization designated for an accident under subsection (a)(2) may request from the rail

passenger carrier involved in the accident a list described in subparagraph (A).

"(2) USE OF INFORMATION.—The director of family support services and the organization may not release to any person information on a list obtained under paragraph (1) but may provide information on the list about a passenger to the family of the passenger to the extent that the director of family support services or the organization considers appropriate.

"(e) CONTINUING RESPONSIBILITIES OF THE BOARD.—In the course of its investigation of an accident described in subsection (a), the Board shall, to the maximum extent practicable, ensure that the families of passengers involved in the accident—

"(1) are briefed, prior to any public briefing, about the accident and any other findings from the investigation; and

"(2) are individually informed of and allowed to attend any public hearings and meetings of the Board about the accident.

"(f) USE OF RAIL PASSENGER CARRIER RESOURCES.—To the extent practicable, the organization designated for an accident under subsection (a)(2) shall coordinate its activities with the rail passenger carrier involved in the accident to facilitate the reasonable use of the resources of the carrier.

"(g) PROHIBITED ACTIONS.—

"(1) ACTIONS TO IMPEDE THE BOARD.—No person (including a State or political subdivision) may impede the ability of the Board (including the director of family support services designated for an accident under subsection (a)(1)), or an organization designated for an accident under subsection (a)(2), to carry out its responsibilities under this section or the ability of the families of passengers involved in the accident to have contact with one another.

"(2) UNSOLICITED COMMUNICATIONS.—No unsolicited communication concerning a potential action for personal injury or wrongful death may be made by an attorney (including any associate, agent, employee, or other representative of an attorney) or any potential party to the litigation to an individual (other than an employee of the rail passenger carrier) injured in the accident, or to a relative of an individual involved in the accident, before the 45th day following the date of the accident.

"(3) PROHIBITION ON ACTIONS TO PREVENT MENTAL HEALTH AND COUNSELING SERVICES.—No State or political subdivision may prevent the employees, agents, or volunteers of an organization designated for an accident under subsection (a)(2) from providing mental health and counseling services under subsection (c)(1) in the 30-day period beginning on the date of the accident. The director of family support services designated for the accident under subsection (a)(1) may extend such period for not to exceed an additional 30 days if the director determines that the extension is necessary to meet the needs of the families and if State and local authorities are notified of the determination.

"(h) DEFINITIONS.—In this section, the following definitions apply:

"(1) RAIL PASSENGER ACCIDENT.—The term 'rail passenger accident' means any rail passenger disaster occurring in the provision of—

"(A) interstate intercity rail passenger transportation (as such term is defined in section 24102); or

"(B) interstate or intrastate high-speed rail (as such term is defined in section 26105) transportation,

regardless of its cause or suspected cause.

"(2) RAIL PASSENGER CARRIER.—The term 'rail passenger carrier' means a rail carrier providing—

"(A) interstate intercity rail passenger transportation (as such term is defined in section 24102); or

"(B) interstate or intrastate high-speed rail (as such term is defined in section 26105) transportation,

except that such term shall not include a tourist, historic, scenic, or excursion rail carrier.

"(3) PASSENGER.—The term 'passenger' includes—

"(A) an employee of a rail passenger carrier aboard a train;

"(B) any other person aboard the train without regard to whether the person paid for the transportation, occupied a seat, or held a reservation for the rail transportation; and

"(C) any other person injured or killed in the accident.

"(i) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section may be construed as limiting the actions that a rail passenger carrier may take, or the obligations that a rail passenger carrier may have, in providing assistance to the families of passengers involved in a rail passenger accident.

"(j) RELINQUISHMENT OF INVESTIGATIVE PRIORITY.—

"(1) GENERAL RULE.—This section (other than subsection (g)) shall not apply to a railroad accident if the Board has relinquished investigative priority under section 1131(a)(2)(B) and the Federal agency to which the Board relinquished investigative priority is willing and able to provide assistance to the victims and families of the passengers involved in the accident.

"(2) BOARD ASSISTANCE.—If this section does not apply to a railroad accident because the Board has relinquished investigative priority with respect to the accident, the Board shall assist, to the maximum extent possible, the agency to which the Board has relinquished investigative priority in assisting families with respect to the accident.".

(b) CONFORMING AMENDMENT.—The table of sections for such chapter is amended by inserting after the item relating to section 1137 the following:

"1138. Assistance to families of passengers involved in rail passenger accidents.".

SEC. 202. RAIL PASSENGER CARRIER PLANS TO ADDRESS NEEDS OF FAMILIES OF PASSENGERS INVOLVED IN RAIL PASSENGER ACCIDENTS.

(a) IN GENERAL.—Part C of subtitle V of title 49, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 251—FAMILY ASSISTANCE

"Sec.
"25101. Plans to address needs of families of passengers involved in rail passenger accidents.

"§ 25101. Plans to address needs of families of passengers involved in rail passenger accidents

"(a) SUBMISSION OF PLANS.—Not later than 6 months after the date of the enactment of this section, each rail passenger carrier shall submit to the Secretary of Transportation and the Chairman of the National Transportation Safety Board a plan for addressing the needs of the families of passengers involved in any rail passenger accident involving a train of the rail passenger carrier and resulting in a major loss of life.

"(b) CONTENTS OF PLANS.—A plan to be submitted by a rail passenger carrier under subsection (a) shall include, at a minimum, the following:

"(1) A plan for publicizing a reliable, toll-free telephone number, and for providing staff, to handle calls from the families of the passengers.

"(2) A process for notifying the families of the passengers, before providing any public notice of the names of the passengers, either by utilizing the services of the organization designated for the accident under section 1138(a)(2) of this title or the services of other suitably trained individuals.

"(3) An assurance that the notice described in paragraph (2) will be provided to the family of a passenger as soon as the rail passenger carrier has verified that the passenger was aboard the train (whether or not the names of all of the passengers have been verified) and, to the extent practicable, in person.

"(4) An assurance that the rail passenger carrier will provide to the director of family support services designated for the accident under section 1138(a)(1) of this title, and to the organization designated for the accident under section 1138(a)(2) of this title, immediately upon request, a list (which is based on the best available information at the time of the request) of the names of the passengers aboard the train (whether or not such names have been verified), and will periodically update the list. The plan shall include a procedure, with respect to unreserved trains and passengers not holding reservations on other trains, for the rail passenger carrier to use reasonable efforts to ascertain the names of passengers aboard a train involved in an accident.

"(5) An assurance that the family of each passenger will be consulted about the disposition of all remains and personal effects of the passenger within the control of the rail passenger carrier.

"(6) An assurance that if requested by the family of a passenger, any possession of the passenger within the control of the rail passenger carrier (regardless of its condition) will be returned to the family unless the possession is needed for the accident investigation or any criminal investigation.

"(7) An assurance that any unclaimed possession of a passenger within the control of the rail passenger carrier will be retained by the rail passenger carrier for at least 18 months.

"(8) An assurance that the family of each passenger or other person killed in the accident will be consulted about construction by the rail passenger carrier of any monument to the passengers, including any inscription on the monument.

"(9) An assurance that the treatment of the families of nonrevenue passengers will be the same as the treatment of the families of revenue passengers.

"(10) An assurance that the rail passenger carrier will work with any organization designated under section 1138(a)(2) of this title on an ongoing basis to ensure that families of passengers receive an appropriate level of services and assistance following each accident.

"(11) An assurance that the rail passenger carrier will provide reasonable compensation to any organization designated under section 1138(a)(2) of this title for services provided by the organization.

"(12) An assurance that the rail passenger carrier will assist the family of a passenger in traveling to the location of the accident and provide for the physical care of the family while the family is staying at such location.

"(13) An assurance that the rail passenger carrier will commit sufficient resources to carry out the plan.

"(14) An assurance that the rail passenger carrier will provide adequate training to the employees and agents of the carrier to meet the needs of survivors and family members following an accident.

"(15) An assurance that, upon request of the family of a passenger, the rail passenger carrier will inform the family of whether the passenger's name appeared on any preliminary passenger manifest for the train involved in the accident.

"(c) LIMITATION ON LIABILITY.—A rail passenger carrier shall not be liable for damages in any action brought in a Federal or State court arising out of the performance of the rail passenger carrier in preparing or providing a passenger list, or in providing information concerning a train reservation, pursuant to a plan submitted by the rail passenger carrier under subsection (b), unless such liability was caused by conduct of the rail passenger carrier which was grossly negligent or which constituted intentional misconduct.

"(d) DEFINITIONS.—In this section—

"(1) the terms 'rail passenger accident' and 'rail passenger carrier' have the meanings such terms have in section 1138 of this title; and

"(2) the term 'passenger' means a person aboard a rail passenger carrier's train that is involved in a rail passenger accident.

"(e) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section may be construed as limiting the actions that a rail passenger carrier may take, or the obligations that a rail passenger carrier may have, in providing assistance to the families of passengers involved in a rail passenger accident.".

(b) CONFORMING AMENDMENT.—The table of chapters for subtitle V of title 49, United States Code, is amended by adding after the item relating to chapter 249 the following new item:

"251. FAMILY ASSISTANCE ..... 25101".

PURPOSE OF THE LEGISLATION

H.R. 4466 reauthorizes the National Transportation Safety Board for fiscal years 2003 through 2005. The Board's authorization expires on September 30, 2002.

BACKGROUND AND NEED FOR THE LEGISLATION

The NTSB is charged with determining the probable cause of transportation accidents and promoting transportation safety. The Board investigates accidents, conducts safety studies, and evaluates the effectiveness of other government agencies' programs for preventing transportation accidents.

In addition, the NTSB coordinates all Federal assistance to families of victims of catastrophic aviation accidents. When resources allow, the NTSB provides family assistance for accidents in other transportation modes, as well.

The Board also serves as the "court of appeal" for airmen, mechanics or mariners whenever the Federal Aviation Administration (FAA) or the U.S. Coast Guard takes an adverse certificate action against them. In the Aviation Investment and Reform Act for the 21st Century (AIR 21), Congress expanded the Board's jurisdiction to include review of FAA emergency revocations of pilot licenses.

These emergency revocations take effect immediately, and prior to AIR 21 the pilot's only recourse was to take the FAA to court.

Most importantly, the NTSB makes safety recommendations, based on its investigations, to Federal, state and local government agencies and to the transportation industry regarding actions that should be taken to prevent accidents.

Since 1967, the Board has investigated more than 114,000 aviation accidents, and at least 10,000 other accidents in other transportation modes. The Safety Board also investigates accidents involving the transportation of hazardous materials, and is the sole U.S. accredited representative at foreign aviation accident investigations under the Convention on International Civil Aviation.

NTSB has no authority to issue substantive regulations covering the transportation industry. Therefore, its effectiveness is dependent upon timely accident reports and safety recommendations. According to the NTSB, since its inception in 1967, the NTSB has issued almost 12,000 safety recommendations in all modes of transportation. Over 82 percent of these recommendations have been adopted by the regulatory and transportation communities.

NTSB OPERATIONS

When the NTSB is notified of a major accident, it launches a go-team that varies in size depending on the severity of the accident and the complexity of the issues involved. Go-teams consist of Safety Board investigators who are experts in appropriate technical specialties, based on the mode of transportation and the nature of the accident. Each Safety Board expert manages an investigative group made up of other experts from industry and government organizations that are parties to the investigation in the collection of the facts surrounding the accident. Eventually, each Safety Board expert prepares a factual report that is verified for accuracy by each of the party representatives in the group. The factual reports are placed in the public docket and, after the completion of a formal technical review by the team, they constitute the factual record of the investigation.

After investigating an accident, NTSB determines the probable cause and issues a formal report. Parties do not participate in the analytical or report-writing phases of NTSB investigations, although they may submit their proposed findings of probable cause and proposed safety recommendations directly to the Board.

The NTSB is statutorily required to make a cause determination on all aviation accidents. Although the NTSB investigates all fatal aviation accidents, the Board may request the FAA to investigate non-fatal aviation accidents. States or other agencies often investigate accidents in other modes of transportation.

NTSB TRAINING ACADEMY

In November 2000, the NTSB selected the George Washington University as the new home of the NTSB Academy, which will be located on the University's Northern Virginia campus in Ashburn, adjacent to the U.S. Department of Transportation's National Crash Analysis Center. This site was selected pursuant to a competitive process, and was supported in the Joint Explanatory Statement accompanying the conference report on the FY 2001 Transportation Appropriations Act.

The NTSB and the University signed a 20-year lease in July 2001. The facility is currently under construction and is scheduled to open in late summer 2003. The state-of-the-art, 72,000-square-foot facility will contain five classrooms, a large laboratory to house the three-dimensional, 93-foot reconstruction of the forward portion of the TWA flight 800 aircraft's fuselage, additional laboratory spaces, a simulations court, meeting rooms, student and teacher work areas, and offices.

The new facility will enable the NTSB to train its own investigators and the transportation community in accident investigation techniques. Through an NTSB curriculum advisory committee, the NTSB is developing future comprehensive training for investigators from the NTSB, other government agencies, the transport community, and other safety professionals both in the U.S. and around the world. In addition to refining and making the NTSB's current accident investigation course more accessible, the curriculum committee envisions courses in all transportation modes in areas such as human factors, survival factors, vehicle performance, interviewing techniques, accident scene documentation, and investigation management.

AUTHORIZED FUNDING LEVELS

The Committee supports the authorized funding levels requested by the NTSB. The table below shows the NTSB's FY 2002 appropriation level, the FY 2003 President's request level, and the authorization levels that are requested by the NTSB for FYs 2003–2005.

[Dollars in millions]

	2002 enacted [1]	2003 Pres. bud.	2003 auth.	2004 auth.	2005 auth.
Salaries and Expenses:					
Funding	$65.8	$71.246	$73.325	$84.999	$89.687
Full-Time Equivalent Staff	438	427	443	469	469
Training Academy:					
Funding	$2.2	$2.59	$3.347	$4.896	$4.995
Full-Time Equivalent Staff [2]	5	5	5	10	10
Total, NTSB Salaries and Expenses:					
Funding	$68.0	$73.836	$76.672	$89.895	$94.682
Full-Time Equivalent Staff	443	432	448	479	479
NTSB Emergency Fund [3]	.....	.....	$4.000	.....	.....

[1] The 2002 figures are the appropriated level, not authorization level, which was $72 million.
[2] In the 2002 enacted and 2003 President's budget columns, these Academy FTE are funded from the Salaries and Expenses amounts shown above. In the 2003–2005 authorization columns, these FTE are funded from amounts shown for the Training Academy.
[3] The Emergency Fund currently has a balance of $2 million. Amounts shown above are authorized to be appropriated in addition to that balance.

The FY 2003 President's budget requests $73.8 million for the NTSB, $5.84 million above the FY 2002 enacted level. Of the $5.84 million requested increase, $3.36 million is related to the President's proposal to shift employee health benefit and pension costs from the Office of Personnel Management to each individual agency's budget in FY 2003. The remaining $2.48 million increase is related to pay raises, benefit cost increases, inflation, and costs associated with the start-up of the NTSB Training Academy. No new program initiatives are funded in the President's request level.

The NTSB has requested an FY 2003 authorization level of $76.7 million, which is $2.8 million higher than the President's budget request. This $2.8 million increase above the President's request

would fund: (1) 16 full-time equivalent staff-years ($2.5 million); and (2) a 3.6 percent cost-of-living adjustment (COLA), instead of the 2.6 percent COLA assumed in the President's Budget ($0.3 million).

The increase requested for FY 2004 includes funding for laboratory equipment and improvements to the Board's information technology infrastructure to enhance the NTSB's investigative tools and technical competence, as well as to improve public access to NTSB's accident investigation, safety recommendation, and safety promotion information. It also includes five additional Academy positions, as well as 26 positions needed to fill shortages in mostly investigative and technical specialty areas. The further increase in funding requested for FY 2005 would simply maintain NTSB operations at the FY 2004 level.

The bill also authorizes the appropriation of an additional $4 million for the NTSB's Emergency Fund. The Fund's current level of $2 million is not always sufficient to cover the costs of an expensive accident investigation, especially where underwater wreckage recovery is required. In such cases, the NTSB's solvency is at risk until a supplemental appropriation can be enacted. For example, the NTSB was in danger of running out of money in FY 2000 until the supplemental appropriation for the Egypt Air and Alaska Air investigations was finally enacted in July 2000. A larger Emergency Fund would ensure that accident investigations could continue without any delay due to a temporary lack of funds.

NOTIFICATION OF APPEAL RIGHTS

The Committee has been contacted by aircraft operators who have concerns with the criteria that the NTSB uses to classify an event as an "accident." Their concern is that the criteria that NTSB uses are not fully articulated and that there is no procedure to question an NTSB field inspector's decision that a particular incident should be classified as an accident. Whether or not an incident is classified as an accident can have serious implications for an operator's FAA certificate and on the insurance premiums that the operator will pay. Section 102 of the bill addresses this issue by requiring the NTSB to notify aircraft owners and operators of their right to appeal a determination by an NTSB employee that a non-fatal event associated with the operation of an aircraft constitutes an accident.

FAMILY ASSISTANCE

The Committee supports the NTSB's request for a statutory change to the Board's responsibility to provide assistance to families of passengers involved in aircraft accidents resulting from intentional criminal acts. Current law triggers the NTSB's family affairs response irrespective of the suspected cause of the accident. This is necessary to provide family assistance without any delay due to uncertainty about which agency will lead the investigation. Although the NTSB Amendments Act of 2000 (P.L. 106–424) established a mechanism for the transfer of investigative priority from the NTSB to the Federal Bureau of Investigation (FBI) in the event of an accident caused by an intentional criminal act, no mechanism for the transfer of family affairs responsibility was requested or provided.

Based on the events of September 11, 2001, the NTSB believes that such a mechanism is needed. The NTSB believes that, if investigative responsibility is transferred to the FBI, then the responsibility for family assistance should be transferred as well. This is because when the FBI has investigative priority, the site of the crash is considered a crime scene and access to the scene and release of information about the investigation are much more restricted than when the NTSB has investigative priority.

According to the NTSB, since September 11th, the FBI has recognized the need to have a stronger program to respond to victims for events of this magnitude. In January 2002, the Director of the FBI announced a reorganization of the Office of Victims Assistance (OVA). The new Program Director of OVA is responsible for designing a program to work with the NTSB and other agencies to support victims in terrorist and criminal events resulting in mass fatalities. The Committee has been told that the FBI has recently hired more than 100 victims assistance staff who will be organized into quick response teams in the event of a criminal act resulting in mass fatalities. This should provide the necessary infrastructure for the FBI to assume the NTSB's family assistance responsibilities in the event of an aircraft accident caused by an intentional criminal act.

This proposed change to the aviation family assistance procedures is included in section 104 of H.R. 4466, and is also incorporated into the provisions of Title II of the bill. Title II incorporates the text of H.R. 554, the Railroad Passenger Disaster Family Assistance Act, which would create family assistance procedures for rail passenger accidents similar to those that already exist for aviation accidents. H.R. 554 was approved by the House in February 2001, but the Senate has not yet acted on the legislation.

SUMMARY OF THE LEGISLATION

Sec. 1.—Short title

This Act may be cited as the "National Transportation Safety Board Reauthorization Act of 2002".

TITLE I—NTSB REAUTHORIZATION

Sec. 101.—Authorization of appropriations

Subsection (a) authorizes the appropriation of $73,325,000 for fiscal year 2003, $84,999,000 for fiscal year 2004, and $89,687,000 for fiscal year 2005 to fund authorized activities of the National Transportation Safety Board.

Subsection (b) authorizes the appropriation of such sums as may be necessary to increase the NTSB's Emergency Fund to, and maintain the Fund at, a level not to exceed $6,000,000.

Subsection (c) authorizes the appropriation of $3,347,000 for fiscal year 2003, $4,896,000 for fiscal year 2004, and $4,995,000 for fiscal year 2005 for necessary expenses of the NTSB Academy.

Sec. 102.—Accident and safety data classification and publication

Section 102 requires that, in any case in which an employee of the NTSB determines that a non-fatal event associated with the operation of an aircraft constitutes an accident, the employee must notify the aircraft owner or operator of the right to appeal that de-

termination to the NTSB. Section 102 also requires the NTSB to establish and publish procedures for such appeals. The requirements of this section could be met simply by amending the NTSB's existing "Pilot/Operator Aircraft Accident Report" form to include a notification of appeal rights and procedures.

Sec. 103.—Secretary of Transportation's responses to safety recommendations

Section 103 requires the Secretary of Transportation to submit a report to Congress and the NTSB on February 1st of each year containing the regulatory status of each recommendation made by the NTSB to the Secretary that the NTSB includes in its "most wanted list" of safety improvements. The Secretary must continue to report annually on the status of each such recommendation until either final action is taken, or the Secretary determines and states in such a report that no action should be taken. Section 103 also provides that, if on March 1st of each year the NTSB has not received the required report, then the NTSB shall notify Congress of the Secretary's failure to submit the report. The Secretary's report should not merely state whether or not the Department of Transportation accepts the recommendation, but should describe what regulatory action it plans to take, when it intends to take the action, or when it will make a decision on the issues raised by the recommendation.

Sec. 104.—Assistance to families of passengers involved in aircraft accidents

Section 104 provides that, if the NTSB has relinquished investigative priority for an aviation accident, and the Federal agency to which the NTSB has relinquished investigative priority is willing and able to provide assistance to the victims and families of the passengers involved in the accident, then the NTSB is relieved of its family assistance duties under section 1136 of title 49, United States Code. Section 104 further provides that, in such a case, the NTSB shall assist, to the maximum extent possible, the agency to which the NTSB has relinquished investigative priority in assisting families with respect to the accident. Finally, section 104 requires the NTSB and the FBI to revise their 1977 agreement on the investigation of accidents within one year of enactment to take into account the amendments made by this section and title II.

Sec. 105.—Technical amendments

Section 105 makes technical corrections to the margins in section 1131(a)(2) of Title 49, United States Code.

Sec. 106.—Adverse effects of carry-on baggage

Section 106 requires the NTSB to conduct a study to identify the adverse effects, including passenger injuries or other safety problems, associated with carry-on baggage stored in overhead bins aboard passenger aircraft, and ways to address such problems. The NTSB shall report to the House Committee on Transportation and Infrastructure and the Senate Committee on Commerce, Science, and Transportation not later than October 1, 2002.

TITLE II—RAILROAD FAMILY ASSISTANCE

Sec. 201.—Assistance by National Transportation Safety Board to families of passengers involved in rail passenger accidents

Section 201(a) of the bill adds a new section 1138 to title 49 that lays out the responsibilities of the NTSB and an independent organization designated by the NTSB. This section authorizes the National Transportation Safety Board (NTSB) to provide assistance to families of passengers involved in rail passenger accidents within the United States. The provision applies only to accidents involving interstate, intercity rail passenger carriers, or interstate or intrastate high-speed rail carriers, but not to those involving tourist, historic, scenic, or excursion rail carriers. Intrastate intercity carriers such as the Alaska Railroad and commuter rail carriers are also excluded.

Subsection (a) of section 1138 directs the NTSB Chairman to take action as soon as practical after being notified of a rail passenger accident resulting in a major loss of life. This terminology is used to give the agency flexibility in deciding when to invoke the procedures of this section. Where the procedures of this bill are invoked, the Chairman is required to take the following actions:

(1) Designate an NTSB employee as a director of family support services who shall be a point of contact within the government for the families and a liaison between the rail passenger carrier and the families.

(2) Designate an independent organization with experience in disasters to be responsible for coordinating the emotional care and support of the families of passengers involved in the accident.

Subsection (b) of section 1138 states the NTSB shall have the primary Federal responsibility for facilitating the recovery and identification of passengers killed in the accident and communicating with the families of passengers involved in the accident as to the roles of the independent organization, government agencies, and the rail passenger carrier involved in the accident.

Subsection (c) of section 1138 sets forth the following specific responsibilities of the independent organization designated in subsection (a):

(1) Provide mental health and counseling services in coordination with the rail passenger carrier.

(2) Provide an environment where the families can grieve in private free from intrusion by lawyers and the press.

(3) Meet with families who come to the scene, contact the other families, and stay in contact until such time as assistance is no longer needed.

(4) Arrange a suitable memorial service in consultation with the families.

Subsection (d) of section 1138 directs the NTSB's director of family support services to request the passenger list as soon as possible. The rail passenger carrier is to use reasonable efforts, with respect to its unreserved trains, and passengers not holding reservations on its other trains, to ascertain the names of passengers aboard the train involved in an accident. The subsection also gives the designated organization the option of requesting the list. Recipients of that list may not release it publicly, but they may use it to provide information to the families.

Subsection (e) of section 1138 requires that the NTSB brief the families prior to any public briefing about the accident. Additionally, the Board is required to individually inform the families about and allow them to attend any public hearings or Board meetings about the accident.

Subsection (f) of section 1138 requires the designated organization, to the extent practicable, to coordinate its activities with the rail passenger carrier and enables it to use the resources of the carrier to help it carry out its duties under this legislation.

Subsection (g) of section 1138 prohibits any person from impeding the NTSB, the director of family support services, or the designated organization in carrying out their responsibilities or the ability of the families to have contact with one another. This subsection also includes a prohibition on lawyers making unsolicited communications to families, or individuals injured in the accident (other than an employee of the rail passenger carrier) before the 45th day following the date of the accident. (The exclusion of railroad employees is to assure no impairment of their immediate representation rights under the Federal Employers Liability Act.) The subsection also provides that no state or political subdivision may prevent the employees, agents or volunteers of the designated organization from providing mental health and counseling services in the 30 days after the accident. The director of family support services may extend this period an additional 30 days.

Subsection (h) of section 1138 defines a rail passenger accident under this bill as a rail disaster occurring in the provision of interstate intercity rail passenger transportation or interstate or intrastate high-speed rail passenger transportation regardless of its cause or suspected cause. A rail passenger carrier is defined as a rail carrier providing interstate intercity rail passenger transportation or interstate or intrastate high-speed rail passenger transportation, except that it does not include a tourist, historic, scenic, or excursion rail carrier. It also defines passenger so that rail carrier employees aboard the train, as well as other victims not aboard the train, are afforded the same treatment from NTSB and the designated organization that passengers aboard the train receive under this legislation.

Subsection (i) of section 1138 provides that nothing in the section may be construed as limiting the actions that a rail passenger carrier may take, or the obligations that a rail passenger carrier may have, in providing assistance to the families of passengers involved in a rail passenger accident.

Subsection (j) of section 1138 provides that in situation where the NTSB has relinquished investigative priority under section 1131(a)(2)(B) to another federal agency and that federal agency is willing and able to provide assistance to victims and families of those involved in a passenger rail accident, the above section shall not apply. However, in the case of a transfer of family assistance responsibilities to another agency, the NTSB shall assist to the maximum extent possible the federal agency providing the family assistance. This provision parallels the changes made to the aviation family assistance statute in section 104 of this bill.

Section 201(b) contains a conforming amendment.

Sec. 202.—Rail passenger carrier plans to address needs of families of passengers involved in rail passenger accidents

Section 202(a) adds a new section 25101 to title 49 requiring rail passenger carriers to have plans to address the needs of families after accidents.

Subsection (a) of section 25101 requires each rail passenger carrier to submit a plan to the Secretary and the NTSB, within 6 months of enactment, setting forth how that carrier plans to address the needs of families of passengers involved in an accident.

Subsection (b) sets forth the minimum elements of the plan, as follows:

(1) A reliable toll-free telephone number and the staff to handle the calls from families;

(2) A process for notifying families of the fate of passengers before the passenger list is publicly released using suitably trained individuals;

(3) An assurance that a family is notified in person, if practical, and as soon as the rail passenger carrier confirms that the next of kin of that family was in fact on board the train even if the carrier has not verified all the names on the passenger list;

(4) An assurance that the rail passenger carrier will provide the passenger list based on the best available information to the family support services director and the designated organization immediately upon request whether or not the names have been verified;

(5) An assurance that the family of each passenger will be consulted about the disposition of all remains and personal effects of the passenger within the control of the rail passenger carrier;

(6) An assurance that, if requested by the family, the carrier will return the possessions of the passenger unless those possessions are needed for the accident investigation;

(7) An assurance that any unclaimed items will be retained for at least 18 months;

(8) An assurance that each family will be consulted about the construction of any monument and the inscription thereon;

(9) An assurance that the treatment of the families of nonrevenue passengers will be the same as the treatment of the families of revenue passengers;

(10) An assurance that the carrier will work with the designated organization on an ongoing basis to help the families;

(11) An assurance that the carrier will provide reasonable compensation to the designated organization;

(12) An assurance that the carrier will assist the families in traveling to the location of the accident and provide for their physical care, such as hotel and meals;

(13) An assurance that the carrier will commit sufficient resources to carry out the plan;

(14) An assurance that the carrier will provide adequate training to the employees and agents of the carrier to meet the needs of survivors and family members following an accident;

(15) An assurance that, upon request of the family of a passenger, the rail passenger carrier will inform the family of

whether the passenger's name appeared on any preliminary passenger manifest for the train involved in the accident; and

Subsection (c) of section 25101 states that a rail passenger carrier shall not be liable for damages arising out of the preparation or provision of a passenger list to the family services director or the designated organization unless such liability was caused by gross negligence or intentional misconduct.

Subsection (d) of section 25101 includes definitions. The definitions of rail passenger accident and rail passenger carrier are the same as in section 1138. The definition of "passenger" means any person aboard a rail passenger carrier's train that is involved in a rail passenger accident.

Subsection (e) of section 25101 states that nothing in this section may be construed as limiting the actions that a rail passenger carrier may take, or the obligations that a rail passenger carrier may have, in providing assistance to the families of passengers involved in a rail passenger accident.

Section 202(b) contains a conforming amendment.

LEGISLATIVE HISTORY AND COMMITTEE CONSIDERATION

A hearing was held on NTSB reauthorization issues on March 14, 2002. H.R. 4466 was introduced by Chairman Don Young, Ranking Member James Oberstar, Aviation Subcommittee Chairman John Mica, Aviation Subcommittee Ranking Member William Lipinski, Railroads Subcommittee Chairman Jack Quinn, and Railroads Subcommittee Ranking Member Bob Clement on April 17, 2002. It was referred to the Committee on Transportation and Infrastructure. A subcommittee mark-up was held on April 18, 2002, where the bill, as introduced, was approved unanimously by voice vote. A full committee mark-up was held on April 24, 2002, where the bill was amended by voice vote. The amended legislation was ordered reported to the House unanimously by voice vote.

ROLLCALL VOTES

Clause 3(b) of rule XIII of the House of Representatives requires each committee report to include the total number of votes cast for and against on each rollcall vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against. There were no rollcall votes during consideration of the bill.

COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

COST OF LEGISLATION

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and is included in the report. Such a cost estimate is included in this report.

COMPLIANCE WITH HOUSE RULE XIII

1. With respect to the requirement of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, and 308(a) of the Congressional Budget Act of 1974, the Committee references the report of the Congressional Budget Office included below.

2. With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goals and objective of this legislation are to improve transportation safety and assistance to passenger rail accident victims and their families.

3. With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 4466 from the Director of the Congressional Budget Office.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 14, 2002.

Hon. DON YOUNG,
Chairman, Committee on Transportation and Infrastructure, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4466, the National Transportation Safety Board Reauthorization Act of 2002.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Rachel Milberg.

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

H.R. 4466—National Transportation Safety Board Reauthorization Act of 2002

Summary: The National Transportation Safety Board (NTSB) investigates every civil aviation accident and significant accidents in other modes of transportation. In addition to its investigations, NTSB provides assistance to the families of passengers involved in an aviation accident. H.R. 4466 would require the NTSB to offer the same services to the families of passengers involved in a significant rail accident. Over the 2003–2005 period, H.R. 4466 would authorize the appropriation of about $248 million for NTSB activities and about $13 million for the NTSB training academy. H.R. 4466 would also authorize the appropriation of amounts necessary to maintain an emergency fund of $6 million at all times.

CBO estimates that implementing H.R. 4466 would cost $261 million over the 2003–2006 period. H.R. 4466 would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply.

H.R. 4466 would prohibit states from blocking the National Transportation Safety Board or agencies designated to provide counseling services from providing support to families of the victims of passenger rail accidents. The bill also would limit the liability of passenger rail carriers when they provide certain information

regarding passenger lists and reservations. These prohibitions would be mandates under the Unfunded Mandates Reform Act (UMRA). While they would limit state authority, the prohibitions would impose no duty on states that would result in additional spending. Consequently, the cost of complying with those intergovernmental mandates would not exceed the threshold established in UMRA ($56 million in 2002, adjusted annually for inflation).

The bill also would impose private-sector mandates, but CBO estimates that the direct costs of those mandates would not exceed the annual threshold established in UMRA ($115 million in 2002, adjusted annually for inflation) in any of the next five years.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 4466 is shown in the following table. The costs of this legislation fall within budget function 400 (transportation).

	By fiscal year, in million of dollars—					
	2002	2003	2004	2005	2006	2007
NTSB spending under current law:						
Budget authority [1]	69	0	0	0	0	0
Estimated outlays	69	8	0	0	0	0
Proposed changes:						
Estimated authorization level	0	80	90	95	0	0
Estimated outlays	0	69	89	94	9	0
NTSB spending under H.R. 4466:						
Estimated authorization level [1]	69	80	90	95	0	0
Estimated outlays	69	77	89	94	9	0

[1] The 2002 level is the amount appropriated for that year for NTSB activities.

Basis of estimate: For this estimate, CBO assumes that H.R. 4466 will be enacted in fiscal year 2002 and that the authorized amounts will be appropriated for each year. Estimates of spending are based on information from NTSB and historical spending patterns of similar programs.

The NTSB emergency fund currently has a balance of $2 million in budget authority. CBO estimates that H.R. 4466 would authorize the appropriation of an additional $4 million to increase the fund to a total of $6 million in budget authority.

NTSB has not spent from the emergency fund over the past five years, and CBO does not estimate any outlays from the fund over the 2002–2007 period. For this reason, CBO estimates that implementing H.R. 4466 would increase budget authority by $4 million more than it would increase outlays over this period. Consequently, we estimate that the emergency fund would not require any additional appropriations to maintain the fund at $6 million over the 2003–2007 period.

Pay-as-you-go considerations: None.

Estimated impact on state, local, and tribal governments: H.R. 4466 would prohibit states from blocking the National Transportation Safety Board or agencies designated to provide counseling services from providing support to families of the victims of passenger rail accidents. The bill also would limit the liability of passenger rail carriers when they provide certain information regarding passenger lists and reservations. These prohibitions would be mandates under UMRA. While they would limit state authority, the prohibitions would impose no duty on states that would result in additional spending. Consequently, the cost of complying with those intergovernmental mandates would not exceed the threshold

established in UMRA ($56 million in 2002, adjusted annually for inflation).

Estimated impact on the private sector: H.R. 4466 would impose three new federal mandates on the private sector. First, the bill would prohibit any person from hindering the ability of the National Transportation Safety Board and the nonprofit organization designated by the NTSB to carry out their responsibilities under the bill or from hindering the ability of families of passengers to contact one another. Second, attorneys or other potential parties would be prohibited for a 45-day period from making unsolicited contact concerning potential legal action with injured passengers or family members. Information provided by the legal community indicates that state bar associations have a variety of regulations governing the action of attorneys after such disasters, but most do not prohibit such contact for a period as long as 45 days. CBO estimates that the private sector's cost of compliance with these prohibitions would be small.

The third mandate would require passenger rail carriers to submit a plan detailing assurances and procedures to be invoked in case of a railway accident involving a major loss of life. Such a plan would have to be submitted to the National Safety Transportation Board and to the Secretary of Transportation no later than six months after the enactment of the bill. According to industry experts, Amtrak is the only current passenger rail carrier that would be affected by the provisions in the bill. Currently, Amtrak has contingency plans for responding to the needs of families of rail accident passengers. According to Amtrak, the additional cost of any further modifications to incorporate the provisions in the bill and the cost of submitting the plan to the NTSB would be small. There also could be direct savings to Amtrak, as the bill limits the passenger rail carrier's liability arising from its preparing or providing a passenger list by the bill.

CBO estimates that the total direct costs for private-sector mandates in this bill would fall well below the threshold ($115 million in 2002, adjusted annually for inflation) established in UMRA.

Estimate prepared by: Federal costs: Rachel Milberg; impact on state, local, and tribal governments: Susan Sieg Tompkins; impact on the private sector: Cecil McPherson.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause (3)(d)(1) of rule XIII of the Rules of the House of Representatives, committee reports on a bill or joint resolution of a public character shall include a statement citing the specific powers granted to the Congress in the Constitution to enact the measure. The Committee on Transportation and Infrastructure finds that Congress has the authority to enact this measure pursuant to its powers granted under article I, section 8 of the Constitution.

FEDERAL MANDATES 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. (Public Law 104–4.)

PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1994 requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt state, local or tribal law. The Committee states that H.R. 4466 does not preempt any state, local, or tribal law, except to the extent provided under 49 U.S.C. 1138(g)(1) as added by section 201 of the bill.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act are created by this legislation.

APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that the legislation 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.)

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, existing law in which no change is proposed is shown in roman):

TITLE 49, UNITED STATES CODE

* * * * * * *

SUBTITLE II—OTHER GOVERNMENT AGENCIES

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CHAPTER 11—NATIONAL TRANSPORTATION SAFETY BOARD

SUBCHAPTER I—GENERAL

Sec.
1101. Definitions.

* * * * * * *

SUBCHAPTER III—AUTHORITY

1131. General authority.

* * * * * * *

1138. Assistance to families of passengers involved in rail passenger accidents.

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SUBCHAPTER II—ORGANIZATION AND ADMINISTRATIVE

§ 1118. Authorization of appropriations

(a) IN GENERAL.—There are authorized to be appropriated for the purposes of this chapter $57,000,000 for fiscal year 2000, $65,000,000 for fiscal year 2001, [and] $72,000,000 for fiscal year 2002, [such sums to] *$73,325,000 for fiscal year 2003, $84,999,000 for fiscal year 2004, and $89,687,000 for fiscal year 2005. Such sums shall* remain available until expended.

(b) EMERGENCY FUND.—The Board has an emergency fund of $2,000,000 available for necessary expenses of the Board, not otherwise provided for, for accident investigations. [Amounts equal to the amounts expended annually out of the fund are authorized to be appropriated to the emergency fund.] *In addition, there are authorized to be appropriated such sums as may be necessary to increase the fund to, and maintain the fund at, a level of not to exceed $6,000,000.*

(c) ACADEMY.—There are authorized to be appropriated to the Board for necessary expenses of the National Transportation Safety Board Academy, not otherwise provided for, $3,347,000 for fiscal year 2003, $4,896,000 for fiscal year 2004, and $4,995,000 for fiscal year 2005. Such sums shall remain available until expended.

§ 1119. Accident and safety data classification and publication

(a) * * *

* * * * * * *

(c) APPEALS.—

(1) NOTIFICATION OF RIGHTS.—In any case in which an employee of the Board determines that an occurrence associated with the operation of an aircraft constitutes an accident, the employee shall notify the owner or operator of that aircraft of the right to appeal that determination to the Board.

(2) PROCEDURE.—The Board shall establish and publish the procedures for appeals under this subsection.

(3) LIMITATION ON APPLICABILITY.—This subsection shall not apply in the case of an accident that results in a loss of life.

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SUBCHAPTER III—AUTHORITY

§ 1131. General authority

(a) GENERAL.—(1) * * *

(2)(A) * * *

(B) If the Attorney General, in consultation with the Chairman of the Board, determines and notifies the Board that circumstances reasonably indicate that the accident may have been caused by an intentional criminal act, the Board shall relinquish investigative priority to the Federal Bureau of Investigation. The relinquishment of investigative priority by the Board shall not otherwise affect the authority of the Board to continue its investigation under this section.

(C) If a Federal law enforcement agency suspects and notifies the Board that an accident being investigated by the Board under sub-

paragraph (A), (B), (C), or (D) of paragraph (1) may have been caused by an intentional criminal act, the Board, in consultation with the law enforcement agency, shall take necessary actions to ensure that evidence of the criminal act is preserved.

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§ 1135. Secretary of Transportation's responses to safety recommendations

(a) * * *

* * * * * * *

[(d) REPORTS TO CONGRESS.—The Secretary shall submit to Congress on January 1 of each year a report containing each recommendation on transportation safety made by the Board to the Secretary during the prior year and a copy of the Secretary's response to each recommendation.**]**

(d) REPORTING REQUIREMENTS.—

(1) ANNUAL SECRETARIAL REGULATORY STATUS REPORTS.—On February 1 of each year, the Secretary shall submit a report to Congress and the Board containing the regulatory status of each significant safety recommendation made by the Board to the Secretary (or to an Administration within the Department). The Secretary shall continue to report on the regulatory status of each such recommendation in the report due on February 1 of subsequent years until final regulatory action is taken on that recommendation or the Secretary (or an Administration within the Department) determines and states in such a report that no action should be taken.

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

(3) SIGNIFICANT SAFETY RECOMMENDATION DEFINED.—For the purposes of this subsection, the term "significant safety recommendation" means a recommendation included in the Board's "most wanted list".

(4) TERMINATION.—This subsection shall cease to be in effect after the report required to be filed on February 1, 2007, is filed.

§ 1136. Assistance to families of passengers involved in aircraft accidents

(a) * * *

* * * * * * *

(j) RELINQUISHMENT OF INVESTIGATIVE PRIORITY.—

(1) GENERAL RULE.—This section (other than subsection (g)) shall not apply to an aircraft accident if the Board has relinquished investigative priority under section 1131(a)(2)(B) and the Federal agency to which the Board relinquished investigative priority is willing and able to provide assistance to the victims and families of the passengers involved in the accident.

(2) BOARD ASSISTANCE.—If this section does not apply to an aircraft accident because the Board has relinquished investigative priority with respect to the accident, the Board shall assist, to the maximum extent possible, the agency to which the Board has relinquished investigative priority in assisting families with respect to the accident.

* * * * * * *

§ 1138. Assistance to families of passengers involved in rail passenger accidents

(a) IN GENERAL.—As soon as practicable after being notified of a rail passenger accident within the United States involving a rail passenger carrier and resulting in a major loss of life, the Chairman of the National Transportation Safety Board shall—

(1) designate and publicize the name and phone number of a director of family support services who shall be an employee of the Board and shall be responsible for acting as a point of contact within the Federal Government for the families of passengers involved in the accident and a liaison between the rail passenger carrier and the families; and

(2) designate an independent nonprofit organization, with experience in disasters and posttrauma communication with families, which shall have primary responsibility for coordinating the emotional care and support of the families of passengers involved in the accident.

(b) RESPONSIBILITIES OF THE BOARD.—The Board shall have primary Federal responsibility for—

(1) facilitating the recovery and identification of fatally injured passengers involved in an accident described in subsection (a); and

(2) communicating with the families of passengers involved in the accident as to the roles of—

(A) the organization designated for an accident under subsection (a)(2);

(B) Government agencies; and

(C) the rail passenger carrier involved,

with respect to the accident and the post-accident activities.

(c) RESPONSIBILITIES OF DESIGNATED ORGANIZATION.—The organization designated for an accident under subsection (a)(2) shall have the following responsibilities with respect to the families of passengers involved in the accident:

(1) To provide mental health and counseling services, in coordination with the disaster response team of the rail passenger carrier involved.

(2) To take such actions as may be necessary to provide an environment in which the families may grieve in private.

(3) To meet with the families who have traveled to the location of the accident, to contact the families unable to travel to such location, and to contact all affected families periodically thereafter until such time as the organization, in consultation with the director of family support services designated for the accident under subsection (a)(1), determines that further assistance is no longer needed.

(4) To arrange a suitable memorial service, in consultation with the families.

(d) PASSENGER LISTS.—

(1) REQUESTS FOR PASSENGER LISTS.—

(A) REQUESTS BY DIRECTOR OF FAMILY SUPPORT SERVICES.—It shall be the responsibility of the director of family support services designated for an accident under subsection (a)(1) to request, as soon as practicable, from the rail passenger carrier involved in the accident a list, which is based on the best available information at the time of the request, of the names of the passengers that were aboard the rail passenger carrier's train involved in the accident. A rail passenger carrier shall use reasonable efforts, with respect to its unreserved trains, and passengers not holding reservations on its other trains, to ascertain the names of passengers aboard a train involved in an accident.

(B) REQUESTS BY DESIGNATED ORGANIZATION.—The organization designated for an accident under subsection (a)(2) may request from the rail passenger carrier involved in the accident a list described in subparagraph (A).

(2) USE OF INFORMATION.—The director of family support services and the organization may not release to any person information on a list obtained under paragraph (1) but may provide information on the list about a passenger to the family of the passenger to the extent that the director of family support services or the organization considers appropriate.

(e) CONTINUING RESPONSIBILITIES OF THE BOARD.—In the course of its investigation of an accident described in subsection (a), the Board shall, to the maximum extent practicable, ensure that the families of passengers involved in the accident—

(1) are briefed, prior to any public briefing, about the accident and any other findings from the investigation; and

(2) are individually informed of and allowed to attend any public hearings and meetings of the Board about the accident.

(f) USE OF RAIL PASSENGER CARRIER RESOURCES.—To the extent practicable, the organization designated for an accident under subsection (a)(2) shall coordinate its activities with the rail passenger carrier involved in the accident to facilitate the reasonable use of the resources of the carrier.

(g) PROHIBITED ACTIONS.—

(1) ACTIONS TO IMPEDE THE BOARD.—No person (including a State or political subdivision) may impede the ability of the Board (including the director of family support services designated for an accident under subsection (a)(1)), or an organization designated for an accident under subsection (a)(2), to carry out its responsibilities under this section or the ability of the families of passengers involved in the accident to have contact with one another.

(2) UNSOLICITED COMMUNICATIONS.—No unsolicited communication concerning a potential action for personal injury or wrongful death may be made by an attorney (including any associate, agent, employee, or other representative of an attorney) or any potential party to the litigation to an individual (other than an employee of the rail passenger carrier) injured in the accident, or to a relative of an individual involved in the accident, before the 45th day following the date of the accident.

(3) PROHIBITION ON ACTIONS TO PREVENT MENTAL HEALTH AND COUNSELING SERVICES.—No State or political subdivision may prevent the employees, agents, or volunteers of an organization designated for an accident under subsection (a)(2) from providing mental health and counseling services under subsection (c)(1) in the 30-day period beginning on the date of the accident. The director of family support services designated for the accident under subsection (a)(1) may extend such period for not to exceed an additional 30 days if the director determines that the extension is necessary to meet the needs of the families and if State and local authorities are notified of the determination.

(h) DEFINITIONS.—In this section, the following definitions apply:

(1) RAIL PASSENGER ACCIDENT.—The term "rail passenger accident" means any rail passenger disaster occurring in the provision of—

(A) interstate intercity rail passenger transportation (as such term is defined in section 24102); or

(B) interstate or intrastate high-speed rail (as such term is defined in section 26105) transportation,

regardless of its cause or suspected cause.

(2) RAIL PASSENGER CARRIER.—The term "rail passenger carrier" means a rail carrier providing—

(A) interstate intercity rail passenger transportation (as such term is defined in section 24102); or

(B) interstate or intrastate high-speed rail (as such term is defined in section 26105) transportation,

except that such term shall not include a tourist, historic, scenic, or excursion rail carrier.

(3) PASSENGER.—The term "passenger" includes—

(A) an employee of a rail passenger carrier aboard a train;

(B) any other person aboard the train without regard to whether the person paid for the transportation, occupied a seat, or held a reservation for the rail transportation; and

(C) any other person injured or killed in the accident.

(i) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section may be construed as limiting the actions that a rail passenger carrier may take, or the obligations that a rail passenger carrier may have, in providing assistance to the families of passengers involved in a rail passenger accident.

(j) RELINQUISHMENT OF INVESTIGATIVE PRIORITY.—

(1) GENERAL RULE.—This section (other than subsection (g)) shall not apply to a railroad accident if the Board has relinquished investigative priority under section 1131(a)(2)(B) and the Federal agency to which the Board relinquished investigative priority is willing and able to provide assistance to the victims and families of the passengers involved in the accident.

(2) BOARD ASSISTANCE.—If this section does not apply to a railroad accident because the Board has relinquished investigative priority with respect to the accident, the Board shall assist, to the maximum extent possible, the agency to which the Board has relinquished investigative priority in assisting families with respect to the accident.

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SUBTITLE V—RAIL PROGRAMS

PART A—SAFETY

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PART C—PASSENGER TRANSPORTATION

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PART C—PASSENGER TRANSPORTATION

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CHAPTER 251—FAMILY ASSISTANCE

Sec.
25101. Plans to address needs of families of passengers involved in rail passenger accidents.

§ 25101. Plans to address needs of families of passengers involved in rail passenger accidents

(a) SUBMISSION OF PLANS.—Not later than 6 months after the date of the enactment of this section, each rail passenger carrier shall submit to the Secretary of Transportation and the Chairman of the National Transportation Safety Board a plan for addressing the needs of the families of passengers involved in any rail passenger accident involving a train of the rail passenger carrier and resulting in a major loss of life.

(b) CONTENTS OF PLANS.—A plan to be submitted by a rail passenger carrier under subsection (a) shall include, at a minimum, the following:

(1) A plan for publicizing a reliable, toll-free telephone number, and for providing staff, to handle calls from the families of the passengers.

(2) A process for notifying the families of the passengers, before providing any public notice of the names of the passengers, either by utilizing the services of the organization designated for the accident under section 1138(a)(2) of this title or the services of other suitably trained individuals.

(3) An assurance that the notice described in paragraph (2) will be provided to the family of a passenger as soon as the rail passenger carrier has verified that the passenger was aboard the train (whether or not the names of all of the passengers have been verified) and, to the extent practicable, in person.

(4) An assurance that the rail passenger carrier will provide to the director of family support services designated for the accident under section 1138(a)(1) of this title, and to the organization designated for the accident under section 1138(a)(2) of this title, immediately upon request, a list (which is based on the best available information at the time of the request) of the names of the passengers aboard the train (whether or not such names have been verified), and will periodically update the list. The plan shall include a procedure, with respect to unreserved

trains and passengers not holding reservations on other trains, for the rail passenger carrier to use reasonable efforts to ascertain the names of passengers aboard a train involved in an accident.

(5) An assurance that the family of each passenger will be consulted about the disposition of all remains and personal effects of the passenger within the control of the rail passenger carrier.

(6) An assurance that if requested by the family of a passenger, any possession of the passenger within the control of the rail passenger carrier (regardless of its condition) will be returned to the family unless the possession is needed for the accident investigation or any criminal investigation.

(7) An assurance that any unclaimed possession of a passenger within the control of the rail passenger carrier will be retained by the rail passenger carrier for at least 18 months.

(8) An assurance that the family of each passenger or other person killed in the accident will be consulted about construction by the rail passenger carrier of any monument to the passengers, including any inscription on the monument.

(9) An assurance that the treatment of the families of nonrevenue passengers will be the same as the treatment of the families of revenue passengers.

(10) An assurance that the rail passenger carrier will work with any organization designated under section 1138(a)(2) of this title on an ongoing basis to ensure that families of passengers receive an appropriate level of services and assistance following each accident.

(11) An assurance that the rail passenger carrier will provide reasonable compensation to any organization designated under section 1138(a)(2) of this title for services provided by the organization.

(12) An assurance that the rail passenger carrier will assist the family of a passenger in traveling to the location of the accident and provide for the physical care of the family while the family is staying at such location.

(13) An assurance that the rail passenger carrier will commit sufficient resources to carry out the plan.

(14) An assurance that the rail passenger carrier will provide adequate training to the employees and agents of the carrier to meet the needs of survivors and family members following an accident.

(15) An assurance that, upon request of the family of a passenger, the rail passenger carrier will inform the family of whether the passenger's name appeared on any preliminary passenger manifest for the train involved in the accident.

(c) LIMITATION ON LIABILITY.—A rail passenger carrier shall not be liable for damages in any action brought in a Federal or State court arising out of the performance of the rail passenger carrier in preparing or providing a passenger list, or in providing information concerning a train reservation, pursuant to a plan submitted by the rail passenger carrier under subsection (b), unless such liability was caused by conduct of the rail passenger carrier which was grossly negligent or which constituted intentional misconduct.

(d) DEFINITIONS.—In this section—

(1) the terms "rail passenger accident" and "rail passenger carrier" have the meanings such terms have in section 1138 of this title; and

(2) the term "passenger" means a person aboard a rail passenger carrier's train that is involved in a rail passenger accident.

(e) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section may be construed as limiting the actions that a rail passenger carrier may take, or the obligations that a rail passenger carrier may have, in providing assistance to the families of passengers involved in a rail passenger accident.

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