

## Calendar No. 613

109TH CONGRESS <i>2nd Session</i>	{	SENATE	{	REPORT 109-335
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### NATIONAL TRANSPORTATION SAFETY BOARD REAUTHORIZATION ACT OF 2006

#### R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND  
TRANSPORTATION

ON

S. 3679



SEPTEMBER 15, 2006.—Ordered to be printed

—  
U.S. GOVERNMENT PRINTING OFFICE

49-010

WASHINGTON : 2006

SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED NINTH CONGRESS

SECOND SESSION

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Mr. STEVENS, from the Committee on Commerce, Science, and Transportation, submitted the following

#### REPORT

[To accompany S. 3679]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 3679) to authorize appropriations for the National Transportation Safety Board, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill (as amended) do pass.

#### PURPOSE OF THE BILL

The purpose of this bill, S. 3679, the National Transportation Safety Board Reauthorization Act of 2006, as reported, is to authorize appropriations for the NTSB for fiscal years (FY) 2007 and 2008, and for other purposes.

#### BACKGROUND AND NEEDS

The NTSB was established in 1967 within the Department of Transportation (DOT). It became an independent agency in 1974. The NTSB is charged with determining the probable cause of transportation accidents and promoting transportation safety. The NTSB investigates accidents, conducts safety studies, and evaluates the effectiveness of other government agencies' programs for preventing transportation accidents. Most significantly, 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. In addition, the NTSB coordinates all Federal assistance to families of victims of catastrophic aviation accidents. When re-

sources 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 (USCG) 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.

Since 1967, the NTSB has investigated more than 124,000 aviation accidents, and at least 10,000 accidents in other transportation modes, including rail, pipeline, maritime, and highways. The NTSB 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.

The NTSB has no authority to issue substantive regulations covering the transportation industry. Its effectiveness as an advocate for transportation safety is dependent upon timely accident reports and safety recommendations. According to the NTSB, since its inception in 1967, the Board has issued more than 12,000 safety recommendations in all modes of transportation. More than 82 percent of these recommendations have been adopted by the regulatory and transportation communities. One of the approaches that the NTSB uses to highlight its most important safety recommendations is the Most Wanted Transportation Safety Improvements List (Most Wanted List).

#### NTSB STRUCTURE

The NTSB is headed by a five-member board nominated by the President and confirmed by the Senate. No more than three members may be of the same political party. Each board member’s term is five years. The President also nominates, and the Senate confirms, one of the five members to serve as chairman and another member to serve as vice chairman. Each position has a term of two years. The current members include the following:

- Mark V. Rosenker (R), Chairman; Term as board member expires 12/31/10
- Robert L. Sumwalt, III (R), Vice Chairman; Term as board member expires 12/31/11
- Deborah A. P. Hersman (D), Member; Term as board member expires 12/31/08
- Kathryn O’Leary Higgins (D), Member; Term as board member expires 12/31/09

#### NTSB OPERATIONS

Each year, the NTSB investigates more than 2,000 accidents and events, including all fatal aviation accidents, and hundreds of railroad, highway, maritime, and pipeline transportation accidents. By statute, the Board must investigate and establish the facts, circumstances, and cause or probable cause for—

- (1) aircraft accidents, other than an aircraft operated by the Armed Forces or by an intelligence agency of the United States;
- (2) highway accidents, including railroad grade crossing accidents, the Board selects in cooperation with a State;
- (3) railroad accidents in which there is a fatality or substantial property damage, or that involves a passenger train;
- (4) pipeline accidents in which there is a fatality, substantial property damage, or significant injury to the environment;
- (5) a major marine casualty occurring on the navigable waters or territorial sea of the United States, or involving a vessel of the United States; and
- (6) any other accident related to the transportation of individuals or property when the Board decides—
  - (A) the accident is catastrophic;
  - (B) the accident involves problems of a recurring character; or
  - (C) the investigation of the accident would carry out other statutory provisions.

With the current resource level, the Board is unable to investigate all of the accidents assigned it by statute. Historically, the Board has focused a majority of its resources to the investigation of aviation accidents. To leverage its limited resources, the NTSB typically designates other government agencies, organizations, corporations, or foreign authorities (in the case of, for example, investigations involving foreign aircraft) as parties to the investigation. According to the NTSB, the participation of these other parties greatly expands the technical resources available to the Board, ensures general agreement on the facts developed during an investigation, and allows first-hand access to information so that the parties can take appropriate and timely corrective actions.

The NTSB has wide discretion over which organizations it designates as parties, except that, by law, the FAA is a party to each aviation investigation. Only those entities that can provide expertise required for the investigation are granted party status, and only those persons who can provide the NTSB with needed expertise are permitted to serve on the investigative team.

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 NTSB investigators who are experts in appropriate technical specialties, based on the mode of transportation and the nature of the accident. Each NTSB 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 NTSB 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, the 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 NTSB.

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

#### NTSB ACADEMY

In 2000, the NTSB began developing its plans for an NTSB Academy that would provide training in transportation safety and accident investigation techniques to NTSB investigators and the transportation community at large. The NTSB selected the George Washington University's Northern Virginia campus in Ashburn, Virginia as the new home of the NTSB Academy, signing a 20-year lease in July, 2001 and officially opening the facility in September 2003. The Academy building houses the forward portion of the TWA flight 800 aircraft fuselage, laboratory spaces, meeting rooms, student and teacher work areas, and various offices including one of the Board's aviation regional offices. Since the Academy became operational, the staff has mainly focused on delivering, improving, and expanding programs that were already being delivered before the building opened.

The Academy was originally designed to be a self-sufficient, if not profitable, training entity enabling the NTSB to train its own investigators and the transportation community in accident investigation techniques. In addition to refining and making the NTSB's current accident investigation course more accessible, the NTSB intended to provide courses in all transportation modes in areas such as human factors, survival factors, vehicle performance, interviewing techniques, accident scene documentation, and investigation management.

However, the Academy has been plagued with controversy since its inception. Preliminary results of an ongoing Government Accountability Office (GAO) review of the Academy indicated that the NTSB Academy is grossly underutilized, offering minimal value to the Board or other Federal entities, and operates at a significant deficit, draining important resources needed for accident investigation and other purposes away from the Board. According to the GAO, in FYs 2004 and 2005, the Academy lost roughly \$3.7 million and \$1.4 million respectively. The GAO has found that the NTSB has done little in past years to maximize the use of the Academy to help cover costs and generate additional revenue. In addition, the majority of instruction hours in 2005 at the facility were provided by NTSB investigators, which meant that the investigative staff was being diverted from investigative duties, their primary mission, to work at the Academy.

Concerns about these issues have prompted NTSB management to recently revise the focus of the Academy. The NTSB will be exploring partnership and contracting possibilities that yield higher revenue returns, with decreased demands on investigative resources. According to the NTSB, the Academy will rely more heavily on instructors from academic, governmental, and private organizations. The NTSB also plans to establish a training and academic Oversight Board comprised of senior NTSB staff. This panel will oversee the curriculum development of contractors and third party organizations, monitor the Academy Plan, oversee marketing strat-

egy, and ensure that the Academy courses maintain a high standard of excellence and accountability to students and the public. The NTSB believes that these changes will reduce the amount of investigative resources used at the Academy and create more training opportunities for NTSB staff at the Academy.

#### SUMMARY OF PROVISIONS

The NTSB Reauthorization Act of 2006 includes authorizations for appropriations for FY 2007 and FY 2008, as well as statutory changes. The table below shows the NTSB's FY 2006 appropriation level, the FY 2007 President's request level, and the authorization levels provided in this bill.

(dollars in millions)				
Salaries & Expenses	2006 Enacted*	2007 Pres. Bud.	2007 Auth.	2008 Auth.
Funding	\$76.700	\$79.594	\$79.594	\$84.382
Fulltime Equivalents	396	399	399	399
Yr.-to-Yr. Funds Increase		3.8%	3.8%	6.0%

\* The 2006 figure is the appropriated level, not the authorization level, which was \$87.539 million.

The FY 2007 President's budget requests \$79.6 million for the NTSB, \$2.864 million above the FY 2006 enacted level. The increase is related to pay raises, benefit cost increases, inflation, and a proposal to merge the NTSB's \$2 million Emergency Fund into its regular salaries and expenses accounts. No new program initiatives are funded in the President's request level. The FY 2007 and FY 2008 authorization levels are based on 399 fulltime equivalents and provide for inflation, pay raises, within grade increases and career ladder promotions, restoring training costs reduced to meet the 2007 request level, and a plan for financial/procurement system replacement.

#### Relief from Certain Contracting Requirements for Investigation Services

The Board's last reauthorization legislation, the NTSB Reauthorization Act of 2003 (P.L. 108-168), provides the authority for the NTSB to enter into agreements or contracts without competition when necessary to expedite an investigation. This authority sunsets on September 30, 2006. The bill would remove the sunset provision, making the special contracting authority permanent.

#### NTSB Academy

The Committee believes it is critical that the agency use its resources in an efficient manner to carry out its safety mission and maintain its reputation as a preeminent agency in conducting transportation accident investigations. For this reason, the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure requested the GAO to conduct a general management review study of the NTSB. The study addressed the extent to which the NTSB (1) follows leading practices in selected management areas, (2) addresses challenges in completing accident investigations and closing safety recommendations, and (3) generates sufficient revenues to cover costs at its Academy.

Preliminary results of the GAO study indicate the NTSB Academy is under utilized. Based on these results, the NTSB Reauthorization Act of 2006 would authorize the Academy as a part of the agency as a whole, rather than as a distinct, subordinate entity. It would require the NTSB to develop a plan, to be implemented within two years of enactment, for the NTSB Academy to achieve self-sufficiency and fully utilize the Academy's resources and facilities.

Finally, the bill would incorporate the content of the Academy's annual report into the Agency's annual report to Congress.

#### **Payment for Services of DOT Inspector General**

The NTSB Amendments Act of 2000 (P.L. 106-424) provided that the DOT Inspector General (DOT IG) was to be reimbursed by the Board for the costs associated with carrying out activities. S. 3679 would remove the reimbursement provision with the understanding that the DOT IG would be funded directly for these activities. This would allow for a more efficient allocation and management of resources. The NTSB and the DOT IG both concur with the change to the reimbursement provision.

#### **DOT IG Authority**

P.L. 106-424 authorized the DOT IG to review the financial management, property management, and business operations of the Board. Based on the results of the general management review study conducted by the GAO, the bill expands the DOT IG's authority over the NTSB to include Board programs, operations and activities not directly associated with specific accident investigations or adjudications. In consultation with the Senate Committee on Commerce, Science, and Transportation or the House Committee on Transportation and Infrastructure, the DOT IG may conduct an audit, investigation, or other review of the NTSB on matters not specifically detailed in the bill. The Committee specifically does not want to have the DOT IG interfering with accident investigations or the development of Board recommendations.

#### **Amtrak Plan to Assist Families of Passengers Involved in Rail Passenger Accidents**

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 bill would require Amtrak to submit to the NTSB a plan for providing the NTSB a list of the names of passengers involved in train accidents and notifying their families appropriately. The aviation accident family assistant program has proved to be beneficial in the event of an aviation accident, and the passenger railroad family assistance program in the bill was modeled after it.

#### **Other Issues**

In response to concerns regarding the general management at the NTSB, the bill would define the position of the Managing Director at the NTSB. The bill would require the Managing Director to appoint and supervise officers and employees, as well as fix the pay of all officers and employees. The bill would require the Managing Director to be appointed by the Chairman and subjected to an approval process established by the Board. Currently, the Managing Director is simply appointed by the Chairman. The Com-

mittee believes this provision would help ensure that the choice of the Managing Director reflects a consensus of the Board regarding the best management leadership for the Agency.

The bill also would permit the Board to credit reimbursements, not just Academy fees, as offsetting collections that would remain available until expended. This proposed change would allow the Board to keep reimbursements it receives for expenses that occurred in prior fiscal years. Currently, such reimbursements are remitted to the U.S. Treasury and may not be used by the Board to offset expenses.

The bill would require the Board to submit to Congress a list of accidents the Board was required to investigate but did not, as well as a list of ongoing investigations exceeding the time allotted by Board order. This provision was included to address concerns of the Committee that many accidents which the Board is required to investigate, such as railroad accidents in which there is a fatality or involves a passenger train, are not being investigated. The Committee believes the Board should explain to both the Congress and the public why the Board has chosen to not investigate such accidents despite the statutory requirement.

The bill would allow each Board member to appoint and supervise the equivalent of two fulltime employees in his or her immediate office. This codifies the current practice of providing Board members with their own, independent staff, who report directly to the individual Board members.

The bill also would set up an investigation tracking system to be available to all Board members and further requires the Board to establish a process for members to review and comment on documents submitted to the President, Office of Management and Budget, or Congress. The Committee believes these provisions would increase the availability of Agency information to all Board members and ensure that Board members can accurately evaluate the status of ongoing investigations.

#### **General Comments**

The Committee is concerned about the recent increase in fatal crashes involving the Mitsubishi MU-2 aircraft. The Committee notes that in July 2005 the FAA launched a safety evaluation of the MU-2 aircraft. In that study the FAA identified several safety recommendations designed to increase the aircraft's operational safety. The Committee also notes the FAA has issued or plans to issue several new rules and airworthiness directives pertaining to the MU-2 aircraft in efforts to improve the safety of its operation. The Committee supports the common safety goal of the FAA and NTSB and encourages full coordination and participation on all actual on-site investigations including those involving the MU-2 aircraft. The Committee is concerned by the recent accident trend and encourages the FAA and NTSB to coordinate to the fullest extent possible to detect the root cause responsible for the accidents, which may or may not be solely caused by pilot error.

#### **LEGISLATIVE HISTORY**

On May 24, 2006, the Committee on Commerce, Science, and Transportation's Subcommittee on Aviation held a hearing on the reauthorization of the NTSB. The Subcommittee heard testimony

on the NTSB's reauthorization proposal as well as discussed an ongoing general management review study of the NTSB conducted by the GAO. On July 18, 2006, Senator Burns introduced S. 3679, a bill to authorize appropriations for the NTSB, with Senators Rockefeller and Lautenberg as co-sponsors. The Committee ordered the amended bill reported favorably on July 19, 2006, by a voice vote.

#### ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, July 25, 2006.*

Hon. TED STEVENS,  
*Chairman, Committee on Commerce, Science, and Transportation,  
U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 3679, the National Transportation Safety Board Reauthorization Act of 2006.

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

Sincerely,

DONALD B. MARRON,  
*Acting Director.*

Enclosure.

*S. 3679—National Transportation Safety Board Reauthorization Act of 2006*

Summary: The National Transportation Safety Board (NTSB) investigates every civil aviation accident and significant accidents involving other modes of transportation. Over the 2007–2008 period, S. 3679 would authorize the appropriation of \$164 million for NTSB activities. The bill also would authorize the appropriation of amounts necessary for the agency to maintain an emergency fund of \$4 million at all times. Finally, S. 3679 would authorize the appropriation of \$500,000 for Amtrak to develop a plan to assist passengers in rail accidents and would authorize the appropriation of amounts necessary for the Inspector General of the Department of Transportation (DOT) to provide services to the NTSB.

Assuming appropriation of amounts authorized by the bill and amounts necessary for DOT's Office of the Inspector General, CBO estimates that implementing S. 3679 would cost \$170 million over the 2007–2011 period. Enacting the bill would not affect direct spending or revenues.

S. 3679 contains an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA), but CBO estimates that the costs to state, local, or tribal governments, if any, would be small and would not exceed the threshold established in UMRA (\$64 million in 2006, adjusted annually for inflation).

By requiring Amtrak to submit a plan addressing the needs of the families of passengers involved in fatal accidents to the Chair-

man of the National Transportation Safety Board, S. 3679 contains a private-sector mandate, as defined in UMRA. CBO estimates that the costs to comply with that mandate would not exceed the annual threshold established by UMRA for private-sector mandates (\$128 million in 2006, adjusted annually for inflation).

**Estimated cost to the Federal Government:** The estimated budgetary impact of S. 3679 is shown in the following table. The costs of this legislation fall within budget function 400 (transportation).

	By fiscal year, in millions of dollars—					
	2006	2007	2008	2009	2010	2011
<b>SPENDING SUBJECT TO APPROPRIATION</b>						
<b>NTSB Spending Under Current Law:<sup>a</sup></b>						
Budget Authority .....	75	0	0	0	0	0
Estimated Outlays .....	76	8	0	0	0	0
<b>Proposed Changes:</b>						
Estimated Authorization Level: <sup>a</sup> .....	0	84	85	1	1	1
Estimated Outlays .....	0	74	85	9	1	1
<b>Spending Under S. 3679:</b>						
Estimated Authorization Level .....	75	84	85	1	1	1
Estimated Outlays .....	76	82	85	9	1	1

<sup>a</sup>In addition to NTSB, the bill would also authorize funding for both Amtrak and the Office of Inspector General of the Department of Transportation.

**Basis of estimate:** For this estimate, CBO assumes that S. 3679 will be enacted near the start of fiscal year 2007 and that the authorized amounts will be appropriated for each year. Estimates of spending are based on historical spending patterns for these programs.

#### *NTSB spending*

Over the 2007–2008 period, the bill would authorize the appropriation of \$164 million for the NTSB. Assuming the appropriation of that amount, CBO estimates that implementing this provision would cost \$164 million over the 2007–2011 period.

#### *Emergency Fund*

Current law authorizes the appropriation of amounts necessary to maintain balances in the NTSB emergency fund of \$2 million. The emergency fund provides additional resources if the NTSB has insufficient funding to complete necessary investigations. S. 3679 would authorize the appropriation of amounts necessary to increase and maintain the fund at \$4 million. (The emergency fund currently has a balance of about \$2 million.) CBO estimates that implementing this provision would authorize an appropriation of \$2 million in 2007. NTSB does not use its emergency fund on a regular basis, and CBO does not estimate any outlays from the fund over the 2006–2011 period. Consequently, we estimate that the emergency fund would not require any additional appropriations to maintain the fund at \$4 million over the next five years.

#### *Other Spending Subject to Appropriation*

S. 3679 would authorize the appropriation of \$500,000 for AMTRAK to develop a plan to assist passengers involved in rail accidents. Also, the bill would authorize amounts necessary for DOT's Office of the Inspector General to serve as the Inspector General of NTSB. Based on past reimbursable agreements between NTSB

and the Office of the Inspector General, CBO estimates that the provision would cost \$5 million over the 2007–2011 period. That amount includes additional resources for the Inspector General to investigate the collapse of ceiling plates in Boston's central artery tunnel project on July 10, 2006, as authorized by the bill.

**Intergovernmental and private-sector impact:** S. 3679 contains an intergovernmental mandate, as defined in UMRA, because section 6 would exempt Amtrak from certain liability in federal or state court for damages due to its release of a passenger list or passenger information pursuant to the plan submitted to the NTSB. Such an exemption would preempt state law. CBO estimates that any costs to state, local, or tribal governments would be small and would not exceed the threshold established in UMRA (\$64 million in 2006, adjusted annually for inflation).

By requiring Amtrak to submit a plan addressing the needs of the families of passengers involved in any rail passenger accident involving an Amtrak intercity train and resulting in a loss of life, S. 3679 contains a private-sector mandate as defined in UMRA. CBO estimates that the costs to comply with that mandate would not exceed the annual threshold established by UMRA for private-sector mandates (\$128 million in 2006, adjusted annually for inflation).

Under the bill, Amtrak would have to submit the plan to the National Transportation Safety Board, the Secretary of Transportation, and the Secretary of Homeland Security no later than six months after the bill's enactment that would be invoked in case of railway accident involving loss of life. As a part of the plan, and in the event of a fatal accident, Amtrak would be required, among other things, to provide a passenger list to federal authorities and a toll-free hotline for use by families of passengers. According to industry source, Amtrak has a contingency plan in place for responding to the needs of families of rail accident passengers which addresses most of the requirements contained in the bill. CBO estimates that the incremental cost of complying with the mandate would be nominal. The bill would authorize the appropriation of \$500,000 in fiscal year 2007 to the Secretary of Transportation for use of Amtrak to complete the required plan.

**Previous estimates:** On April 24, 2006, CBO transmitted a cost estimate for H.R. 5076, the National Transportation Safety Board Amendments Act of 2006, as ordered reported by the House Committee on Transportation and Infrastructure on April 5, 2006. S. 3679 and H.R. 5076 are similar but would authorize different amounts of money. CBO's cost estimates reflect the different provisions in these bills.

**Estimate prepared by:** Federal Costs: Gregory Waring. Impact on State, Local, and Tribal Governments: Sarah Puro. Impact on the Private Sector: Fatimot Ladipo.

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

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported:

#### NUMBER OF PERSONS COVERED

This legislation would provide an authorization of appropriations for FYs 2007 and 2008 for the NTSB to carry out its functions. As this language is reauthorizing an existing agency, the number of persons covered should be consistent with current levels.

#### ECONOMIC IMPACT

The bill, as reported, would provide authorization levels of \$164 million for NTSB activities for FYs 2007 through 2008. The bill also would authorize the appropriation of amounts necessary for the agency to maintain an emergency fund of \$4 million at all times. Finally, S. 3679 would authorize the appropriation of \$500,000 for Amtrak to develop a plan to assist passengers in rail accidents and would authorize the appropriation of amounts necessary for the DOT IG to provide services to the NTSB. These funding levels are not expected to have an inflationary impact on the Nation's economy.

#### PRIVACY

The reported bill would have little, if any, impact on the personal privacy of U.S. citizens.

#### PAPERWORK

The reported bill would not increase paperwork requirements for the private sector.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Short title; table of contents.*

This section designates the title of the bill as the "National Transportation Safety Board Reauthorization Act of 2006".

##### *Section 2. Reports.*

This section would require the NTSB to include additional information related to investigations, the Academy, and contracts in its annual report to Congress. The Board must provide, each year, a list of accidents that the Board was required to investigate but did not investigate, along with an explanation of why they were not investigated. Additionally, this section requires the Board to list ongoing investigations that have exceeded the expected time allotted for completion by Board order, along with an explanation for the additional time to complete the investigation also is required each year. This section would require the NTSB to develop a plan, within 90 days, for the Academy to achieve self-sufficiency and fully utilize the Academy's resources and facilities. A draft of this plan must be submitted to the GAO for review, and provided to the Senate Committee on Commerce, Science, and Transportation and the House Committee on Transportation and Infrastructure. After consideration of any GAO comments, the NTSB must submit an updated report on its plan to Congress within 180 days, and that plan

must be fully implemented within 2 years after the enactment of the legislation.

This section also would mandate that, within 90 days of the submission of DOT's annual report on implementation of Board recommendations relevant to DOT, the NTSB review and comment on the DOT report to the DOT and Congress. The Board is further encouraged to provide recommendations and comments to the Congress pertaining to pending transportation safety legislation.

*Section 3. Contracting requirements for investigation services.*

This section would make permanent the Board's authority to enter into agreements or contracts for investigations conducted under the Board's general authority without regard to any provision of law requiring competition, if necessary to expedite the investigation. A description and rationale of each contract permitted under this authority would be required annually.

*Section 4. Technical corrections.*

This section of the bill would establish the position of a Managing Director that will appoint and supervise officers and employees (other than those in the immediate office of a Board member) as well as fix the pay of all officers and employees. The Managing Director would be appointed by the Chairman in consultation with the Board, and must be subject to an approval process established by the Board.

This section would permit each member of the Board to appoint and supervise two fulltime employees in his or her immediate office, with such employees still subject to standards that apply to all NTSB employees. The Board also would be required, within 6 months, to set up an investigation tracking system available to all Board members that tracks the status and activities associated with all ongoing and pending investigations undertaken by the Board. The Board would be required to develop a process for the Board to review and comment on documents submitted the President, Office of Management and Budget, or Congress.

This section also would require the NTSB to locate at least one fulltime employee in every State more than 1,000 miles from the nearest NTSB regional office to permit timely initial response to accidents occurring anywhere in the United States.

*Section 5. Amtrak plan to assist families of passengers involved in rail passenger accidents.*

Within 6 months after enactment, Amtrak would be required to submit to the NTSB, DOT, and the Department of Homeland Security a plan for providing the NTSB and DOT a list of the names of passengers involved in train accidents and notifying their families appropriately. This initiative is modeled after the NTSB's aviation accident authority with \$500,000 authorized in FY 2007 to carry out the section.

*Section 6. Inspector General of the NTSB.*

This section would give the DOT IG the authority over Board programs, operations, and activities not directly associated with specific accident investigations or adjudications, specifically: (1) financial management, property management, and business oper-

ations, including internal accounting and administrative control systems, (2) information management and security, including privacy protection of personally identifiable information, (3) resource management, (4) workforce development, (5) procurement and contracting planning, practices and policies, (6) malfeasance in office by Board employees and contractors, and (7) allegations of false statements, fraud, and other criminal activity within the jurisdiction of the Board.

The IG's authority would exclude direct involvement or oversight in specific accident investigations, and the IG also would be required to consult closely with the Senate Committee on Commerce, Science, and Transportation and the House Committee on Transportation and Infrastructure and the NTSB on its on-going investigations.

In addition, as part of the NTSB Amendments Act of 2000, the NTSB is required to reimburse the DOT IG for costs associated with the review authority of the DOT IG. This reimbursement provision is removed with the understanding that the DOT IG would be funded directly for these activities.

#### *Section 7. Audit procedures.*

This section would require the NTSB, in consultation with the DOT IG, to continue to develop and implement comprehensive internal audit controls for its operations, which must address Board asset management systems, including systems for accounting management, debt collection, travel, and property and inventory management and control.

#### *Section 8. DOT IG to investigate Central Artery project contractors and oversight agencies.*

This section would require the DOT IG to investigate the contractors involved in the development and construction of the Central Artery tunnel project in Boston, Massachusetts, and the public agencies that oversaw their work. This section would give the DOT IG the authority to investigate parties involved in the construction, maintenance, and oversight of the Central Artery project in order to determine whether the collapse of ceiling plates in the tunnel on July 10, 2006, resulted from poor planning, development, construction, or other factors.

#### *Section 9. Implementation of NTSB's "Most Wanted Transportation Safety Improvements, 2006".*

This section would require the FAA to submit a report to the Senate Committee on Commerce, Science, and Transportation and the House Committee on Transportation and Infrastructure explaining why the agency has not implemented the aviation recommendations in the NTSB's "Most Wanted List."

#### *Section 10. Authorization of appropriations.*

The bill would authorize \$79,594,000 in FY 2007 and \$84,382,432 in FY 2008, and would eliminate the previous practice of separately listing funds for Academy expenses. The bill also would permit the Board to use refunds and reimbursements that are received in a fiscal year subsequent to the year for which the funds were originally appropriated.

## CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, 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 material is printed in italic, existing law in which no change is proposed is shown in roman):

### TITLE 49. TRANSPORTATION

#### SUBTITLE II. OTHER GOVERNMENT AGENCIES

##### CHAPTER 11. NATIONAL TRANSPORTATION SAFETY BOARD

###### SUBCHAPTER II. ORGANIZATION AND ADMINISTRATIVE

###### **§ 1111. General organization**

(a) ORGANIZATION.—The National Transportation Safety Board is an independent establishment of the United States Government.

(b) APPOINTMENT OF MEMBERS.—The Board is composed of 5 members appointed by the President, by and with the advice and consent of the Senate. Not more than 3 members may be appointed from the same political party. At least 3 members shall be appointed on the basis of technical qualification, professional standing, and demonstrated knowledge in accident reconstruction, safety engineering, human factors, transportation safety, or transportation regulation.

(c) TERMS OF OFFICE AND REMOVAL.—The term of office of each member is 5 years. An individual appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of that individual was appointed, is appointed for the remainder of that term. When the term of office of a member ends, the member may continue to serve until a successor is appointed and qualified. The President may remove a member for inefficiency, neglect of duty, or malfeasance in office.

(d) CHAIRMAN AND VICE CHAIRMAN.—The President shall designate, by and with the advice and consent of the Senate, a Chairman of the Board. The President also shall designate a Vice Chairman of the Board. The terms of office of both the Chairman and Vice Chairman are 2 years. When the Chairman is absent or unable to serve or when the position of Chairman is vacant, the Vice Chairman acts as Chairman.

(e) DUTIES AND POWERS OF CHAIRMAN.—The Chairman is the chief executive and administrative officer of the Board. Subject to the general policies and decisions of the Board, the Chairman shall—

[(1) appoint, supervise, and fix the pay of officers and employees necessary to carry out this chapter;]

(1) appoint and supervise officers and employees, other than regular and fulltime employees in the immediate offices of another member, necessary to carry out this chapter;

(2) fix the pay of officers and employees necessary to carry out this chapter;

[(2)] (3) distribute business among the officers, employees, and administrative units of the Board; and

[(3)] (4) supervise the expenditures of the Board.

(f) QUORUM.—Three members of the Board are a quorum in carrying out duties and powers of the Board.

(g) OFFICES, BUREAUS, AND DIVISIONS.—The Board shall establish offices necessary to carry out this chapter, including an office to investigate and report on the safe transportation of hazardous material. The Board shall establish distinct and appropriately staffed bureaus, divisions, or offices to investigate and report on accidents involving each of the following modes of transportation:

(1) aviation.

(2) highway and motor vehicle.

(3) rail and tracked vehicle.

(4) pipeline.

(5) marine.

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

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

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

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

(i) MANAGING DIRECTOR.—*The Board shall have a Managing Director who shall be—*

(1) appointed by the Chairman, in consultation with the Board; and

(2) approved by the Board, pursuant to a procedure developed and adopted by the Board.

(j) BOARD MEMBER STAFF.—*Each member of the Board shall appoint and supervise regular and fulltime employees in his or her immediate office as long as any such employee has been approved for employment by the designated agency ethics official under the same guidelines that apply to all employees of the Board. The appointment authority provided by this subsection is limited to the number of fulltime equivalent positions, in addition to 1 senior professional staff at the GS-15 level and 1 administrative staff, allocated each member through the Board's annual budget and allocation process.*

[(i)] (k) SEAL.—The Board shall have a seal that shall be judicially recognized.

### **§ 1113. Administrative**

(a) GENERAL AUTHORITY.—(1) The National Transportation Safety Board, and when authorized by it, a member of the Board, an

administrative law judge employed by or assigned to the Board, or an officer or employee designated by the Chairman of the Board, may conduct hearings to carry out this chapter, administer oaths, and require, by subpoena or otherwise, necessary witnesses and evidence.

(2) A witness or evidence in a hearing under paragraph (1) of this subsection may be summoned or required to be produced from any place in the United States to the designated place of the hearing. A witness summoned under this subsection is entitled to the same fee and mileage the witness would have been paid in a court of the United States.

(3) A subpoena shall be issued under the signature of the Chairman or the Chairman's delegate but may be served by any person designated by the Chairman.

(4) If a person disobeys a subpoena, order, or inspection notice of the Board, the Board may bring a civil action in a district court of the United States to enforce the subpoena, order, or notice. An action under this paragraph may be brought in the judicial district in which the person against whom the action is brought resides, is found, or does business. The court may punish a failure to obey an order of the court to comply with the subpoena, order, or notice as a contempt of court.

(b) ADDITIONAL POWERS.—(1) The Board may—

(A) procure the temporary or intermittent services of experts or consultants under section 3109 of title 5;

(B) make agreements and other transactions necessary to carry out this chapter without regard to section 3709 of the Revised Statutes (41 U.S.C. 5);

(C) use, when appropriate, available services, equipment, personnel, and facilities of a department, agency, or instrumentality of the United States Government on a reimbursable or other basis;

(D) confer with employees and use services, records, and facilities of State and local governmental authorities;

(E) appoint advisory committees composed of qualified private citizens and officials of the Government and State and local governments as appropriate;

(F) accept voluntary and uncompensated services notwithstanding another law;

(G) accept gifts of money and other property;

(H) make contracts with nonprofit entities to carry out studies related to duties and powers of the Board; **[and]**

*(I) for an investigation under section 1131, enter into agreements or contracts without regard to any other provision of law requiring competition, if necessary to expedite the investigation; and*

**[I]** (J) negotiate and enter into agreements with individuals and private entities and departments, agencies, and instrumentalities of the Government, State and local governments, and governments of foreign countries for the provision of facilities, accident-related and technical services or training in accident investigation theory and techniques, and require that such entities provide appropriate consideration for the reasonable costs of any facilities, goods, services, or training provided by the Board.

(2) The Board shall deposit in the Treasury amounts received under paragraph [(1)(I)] (1)(J) of this subsection to be credited as offsetting collections to the appropriation of the Board. The Board shall maintain an annual record of collections received under paragraph [(1)(I)] (1)(J) of this subsection.

(c) SUBMISSION OF CERTAIN COPIES TO CONGRESS.—When the Board submits to the President or the Director of the Office of Management and Budget a budget estimate, budget request, supplemental budget estimate, other budget information, a legislative recommendation, prepared testimony for congressional hearings, or comments on legislation, the Board must submit a copy to Congress at the same time. An officer, department, agency, or instrumentality of the Government may not require the Board to submit the estimate, request, information, recommendation, testimony, or comments to another officer, department, agency, or instrumentality of the Government for approval, comment, or review before being submitted to Congress. *The Board shall develop and approve a process for the Board's review and comment or approval of documents submitted to the President, Director of the Office of Management and Budget, or the Congress under this subsection.*

(d) LIAISON COMMITTEES.—The Chairman may determine the number of committees that are appropriate to maintain effective liaison with other departments, agencies, and instrumentalities of the Government, State and local governmental authorities, and independent standard-setting authorities that carry out programs and activities related to transportation safety. The Board may designate representatives to serve on or assist those committees.

(e) INQUIRIES.—The Board, or an officer or employee of the Board designated by the Chairman, may conduct an inquiry to obtain information related to transportation safety after publishing notice of the inquiry in the Federal Register. The Board or designated officer or employee may require by order a department, agency, or instrumentality of the Government, a State or local governmental authority, or a person transporting individuals or property in commerce to submit to the Board a written report and answers to requests and questions related to a duty or power of the Board. The Board may prescribe the time within which the report and answers must be given to the Board or to the designated officer or employee. Copies of the report and answers shall be made available for public inspection.

(f) REGULATIONS.—The Board may prescribe regulations to carry out this chapter.

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

(2) LIMITATION ON OVERTIME PAY TO AN EMPLOYEE.—An employee of the Board may not receive overtime pay under paragraph (1), for work performed in a calendar year, in an amount that exceeds 15 percent of the annual rate of basic pay of the employee for such calendar year.

(3) LIMITATION ON TOTAL AMOUNT OF OVERTIME PAY.—The Board may not make overtime payments under paragraph (1) for work performed in any fiscal year in a total amount that exceeds 1.5 percent of the amount appropriated to carry out this chapter for that fiscal year.

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

(5) ANNUAL REPORT.—Not later than January 31, 2002, and annually thereafter, the Board shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House Transportation and Infrastructure Committee a report identifying the total amount of overtime payments made under this subsection in the preceding fiscal year, and the number of employees whose overtime pay under this subsection was limited in that fiscal year as a result of the 15 percent limit established by paragraph (2).

*(h) INVESTIGATIVE OFFICERS.—The Board shall maintain at least 1 fulltime employee in each State located more than 1,000 miles from the nearest Board regional office to provide initial investigative response to accidents the Board is empowered to investigate under this chapter that occur in those States.*

#### § 1117. Annual report

The National Transportation Safety Board shall submit a report to Congress on July 1 of each year. The report shall include—

(1) a statistical and analytical summary of the transportation accident investigations conducted and reviewed by the Board during the prior calendar year;

(2) a survey and summary of the recommendations made by the Board to reduce the likelihood of recurrence of those accidents together with the observed response to each recommendation; [and]

(3) a detailed appraisal of the accident investigation and accident prevention activities of other departments, agencies, and instrumentalities of the United States Government and State and local governmental authorities having responsibility for those activities under a law of the United States or a [State.] *State;*

*(4) a description of the activities and operations of the National Transportation Safety Board Academy during the prior calendar year;*

*(5) a list of accidents during the prior calendar year that the Board was required to investigate under section 1131 of this title but did not investigate, and an explanation of why they were not investigated;*

*(6) a list of ongoing investigations that have exceeded the expected time allotted for completion by Board order and an ex-*

*planation for the additional time required to complete each such investigation; and*

*(7) a description of each contract executed during the preceding calendar year under the authority of section 1113(b)(1)(I), and the rationale for dispensing with competition requirements with respect to each such contract.*

#### **§ 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, \$72,000,000 for fiscal year 2002, \$73,325,000 for fiscal year 2003, \$78,757,000 for fiscal year 2004, \$83,011,000 for fiscal year 2005, [and] \$87,539,000 for fiscal year [2006.] 2006, \$79,594,000 for fiscal year 2007, and \$84,382,432 for fiscal year 2008. 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. 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 not to exceed \$4,000,000.]

*(b) EMERGENCY FUND.—There are authorized to be appropriated for necessary expenses of the Board, not otherwise provided for, for accident investigations amounts sufficient to maintain the emergency fund at a level not to exceed \$4,000,000, such sums to remain available until expended.*

(c) [(ACADEMY.—)]FEES, REFUNDS, AND REIMBURSEMENTS.—[(1) AUTHORIZATION.—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, \$4,995,000 for fiscal year 2005, and \$5,200,000 for fiscal year 2006. Such sums shall remain available until expended.]

[(2) FEES.—The Board may impose and collect such fees as it determines to be appropriate for services provided by or through the Academy.]

*(1) IN GENERAL.—The Board may impose and collect such fees, refunds, and reimbursements as it determines to be appropriate for services provided by or through the Board.*

[(3)] (2) RECEIPTS CREDITED AS OFFSETTING COLLECTIONS.—Notwithstanding section 3302 of title 31, any [fee] fee, refund, or reimbursement collected under this subsection—

(A) shall be credited as offsetting collections to the account that finances the activities and services for which the fee is [imposed;] imposed or with which the refund or reimbursement is associated;

(B) shall be available for expenditure only to pay the costs of activities and services for which the fee is [imposed;] imposed or with which the refund or reimbursement is associated; and

(C) shall remain available until expended.

[(4)] (3) REFUNDS.—The Board may refund any fee paid by mistake or any amount paid in excess of that required.

[(d) REPORT ON ACADEMY OPERATIONS.—The National Transportation Safety Board shall transmit an annual report to the Congress on the activities and operations of the National Transportation Safety Board Academy.]

SUBCHAPTER III. AUTHORITY

**§ 1131. General authority**

(a) GENERAL.—(1) The National Transportation Safety Board shall investigate or have investigated (in detail the Board prescribes) and establish the facts, circumstances, and cause or probable cause of—

- (A) an aircraft accident the Board has authority to investigate under section 1132 of this title or an aircraft accident involving a public aircraft as defined by section 40102(a)(37) of this title other than an aircraft operated by the Armed Forces or by an intelligence agency of the United States;
- (B) a highway accident, including a railroad grade crossing accident, the Board selects in cooperation with a State;
- (C) a railroad accident in which there is a fatality or substantial property damage, or that involves a passenger train;
- (D) a pipeline accident in which there is a fatality, substantial property damage, or significant injury to the environment;
- (E) a major marine casualty (except a casualty involving only public vessels) occurring [on the navigable waters or territorial sea of the United States,] *on the navigable waters, all internal waters, and the territorial sea of the United States,* or involving a vessel of the United States (*as defined in section 2101(46)*), under regulations prescribed jointly by the Board and the head of the department in which the Coast Guard is operating; and
- (F) any other accident related to the transportation of individuals or property when the Board decides—
  - (i) the accident is catastrophic;
  - (ii) the accident involves problems of a recurring character; or
  - (iii) the investigation of the accident would carry out this chapter.

(2)(A) Subject to the requirements of this paragraph, an investigation by the Board under paragraph (1)(A)–(D) or (F) of this subsection has priority over any investigation by another department, agency, or instrumentality of the United States Government. The Board shall provide for appropriate participation by other departments, agencies, or instrumentalities in the investigation. However, those departments, agencies, or instrumentalities may not participate in the decision of the Board about the probable cause of the accident.

(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 subparagraph (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.

(3) This section and sections 1113, 1116(b), 1133, and 1134(a) and (c)-(e) of this title do not affect the authority of another department, agency, or instrumentality of the Government to investigate an accident under applicable law or to obtain information directly from the parties involved in, and witnesses to, the accident. The Board and other departments, agencies, and instrumentalities shall ensure that appropriate information developed about the accident is exchanged in a timely manner.

(b) ACCIDENTS INVOLVING PUBLIC VESSELS.—(1) The Board or the head of the department in which the Coast Guard is operating shall investigate and establish the facts, circumstances, and cause or probable cause of a marine accident involving a public vessel and any other vessel. The results of the investigation shall be made available to the public.

(2) Paragraph (1) of this subsection and subsection (a)(1)(E) of this section do not affect the responsibility, under another law of the United States, of the head of the department in which the Coast Guard is operating.

(c) ACCIDENTS NOT INVOLVING GOVERNMENT MISFEASANCE OR NONFEASANCE.—(1) When asked by the Board, the Secretary of Transportation or the Secretary of the department in which the Coast Guard is operating may—

- (A) investigate an accident described under subsection (a) or (b) of this section in which misfeasance or nonfeasance by the Government has not been alleged; and
- (B) report the facts and circumstances of the accident to the Board.

(2) The Board shall use the report in establishing cause or probable cause of an accident described under subsection (a) or (b) of this section.

(d) ACCIDENTS INVOLVING PUBLIC AIRCRAFT.—The Board, in furtherance of its investigative duties with respect to public aircraft accidents under subsection (a)(1)(A) of this section, shall have the same duties and powers as are specified for civil aircraft accidents under sections 1132(a), 1132(b), and 1134(a), (b), (d), and (f) of this title.

(e) ACCIDENT REPORTS.—The Board shall report on the facts and circumstances of each accident investigated by it under subsection (a) or (b) of this section. The Board shall make each report available to the public at reasonable cost.

### **§ 1137. Authority of the Inspector General**

(a) IN GENERAL.—The Inspector General of the Department of Transportation, in accordance with the mission of the Inspector General to prevent and detect fraud and abuse, shall have authority to review only the financial management, property management, and business operations of the National Transportation Safety Board, including internal accounting and administrative control

systems, to determine compliance with applicable Federal laws, rules, and regulations.

[(b) DUTIES.—In carrying out this section, the Inspector General shall—

[(1) keep the Chairman of the Board and Congress fully and currently informed about problems relating to administration of the internal accounting and administrative control systems of the Board;

[(2) issue findings and recommendations for actions to address such problems; and

[(3) report periodically to Congress on any progress made in implementing actions to address such problems.

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

[(d) REIMBURSEMENT.—The Inspector General shall be reimbursed by the Board for the costs associated with carrying out activities under this section.]

***§ 1137. Designation of the Department of Transportation Inspector General as Inspector General of the National Transportation Safety Board***

(a) *ESTABLISHMENT OF INSPECTOR GENERAL OF THE NATIONAL TRANSPORTATION SAFETY BOARD.*—*In order to promote economy, efficiency, and effectiveness in the administration of, and to prevent and detect fraud and abuse in the programs, operations, and activities of the National Transportation Safety Board, the Inspector General of the Department of Transportation shall serve as the Inspector General of the National Transportation Safety Board.*

(b) *AUTHORITY OF THE INSPECTOR GENERAL.*—

(1) *The Inspector General shall exercise such authority as provided by the Inspector General Act of 1978, and other applicable laws, over Board programs, operations and activities not directly associated with specific accident investigations or adjudications, including—*

(A) *financial management, property management, and business operations, including internal accounting and administrative control systems;*

(B) *information management and security, including privacy protection of personally identifiable information;*

(C) *resource management;*

(D) *workforce development;*

(E) *procurement and contracting planning, practices and policies;*

(F) *malfeasance in office by Board employees and contractors; and*

(G) *allegations of false statements, fraud, and other criminal activity within the jurisdiction of the Board.*

(2) *In consultation with the Senate Committee on Commerce, Science, and Transportation or the House Committee on Transportation and Infrastructure Committee, the Inspector General may conduct an audit, investigation, or other review on matters*

*not described in subparagraphs (A) through (G) of paragraph (1).*

(c) *DUTIES.*—*In carrying out this section, the Inspector General shall—*

*(1) report directly to the Chairman of the Committee and ensure that the Chairman is kept fully and currently informed concerning fraud and other serious problems, abuses, and deficiencies relating to the administration of programs, operations, and activities of the Board;*

*(2) recommend to the Chairman corrective action concerning such problems, abuses, and deficiencies;*

*(3) report to the Chairman on the progress made in implementing such corrective action; and*

*(4) promptly notify the Chairman on any problems related to access for information or carrying out an audit or investigation.*

(d) *INFORMATION PROVIDED TO BOARD MEMBERS.*—*The Inspector General and Chairman shall ensure that all members of the Board are informed of major work in progress through regular and periodic briefings and, as appropriate, on a timelier basis for matters of a significant nature.*

(e) *AUTHORIZATION FOR APPROPRIATIONS.*—*There are authorized to be appropriated to the Secretary of Transportation for use by the Inspector General of the Department of Transportation such sums as may be necessary to cover expenses associated with activities pursuant to the authority exercised as the Inspector General of the Board. In the absence of an appropriation, the Inspector General and the Board shall have a reimbursable agreement to cover such expenses.*

\* \* \* \* \*

## SUBTITLE V—RAIL PROGRAMS

### PART C—PASSENGER TRANSPORTATION

#### CHAPTER 243. AMTRAK

##### **§ 24316. Plans to address needs of families of passengers involved in rail passenger accidents**

(a) *SUBMISSION OF PLAN.*—*Not later than 6 months after the date of the enactment of the National Transportation Safety Board Reauthorization Act of 2006, Amtrak shall submit to the Chairman of the National Transportation Safety Board, the Secretary of Transportation, and the Secretary of Homeland Security a plan for addressing the needs of the families of passengers involved in any rail passenger accident involving an Amtrak intercity train and resulting in a loss of life.*

(b) *CONTENTS OF PLANS.*—*The plan to be submitted by Amtrak under subsection (a) shall include, at a minimum, the following:*

*(1) A process by which Amtrak will maintain and provide to the National Transportation Safety Board and the Secretary of Transportation, 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 Amtrak to use reasonable efforts to ascertain the number and names of passengers aboard a train involved in an accident.*

*(2) A plan for creating and publicizing a reliable, toll-free telephone number within 4 hours after such an accident occurs, and for providing staff, to handle calls from the families of the passengers.*

*(3) A process for notifying the families of the passengers, before providing any public notice of the names of the passengers, by suitably trained individuals.*

*(4) A process for providing the notice described in paragraph (2) to the family of a passenger as soon as Amtrak has verified that the passenger was aboard the train (whether or not the names of all of the passengers have been verified).*

*(5) A process by which the family of each passenger will be consulted about the disposition of all remains and personal effects of the passenger within Amtrak's control; that any possession of the passenger within Amtrak's control will be returned to the family unless the possession is needed for the accident investigation or any criminal investigation; and that any unclaimed possession of a passenger within Amtrak's control will be retained by the rail passenger carrier for at least 18 months.*

*(6) A process by which the treatment of the families of nonrevenue passengers will be the same as the treatment of the families of revenue passengers.*

*(7) An assurance that Amtrak will provide adequate training to its employees and agents to meet the needs of survivors and family members following an accident.*

*(c) USE OF INFORMATION.—The National Transportation Safety Board, the Secretary of Transportation, and Amtrak may not release any personal information on a list obtained under subsection (b)(1) but may provide information on the list about a passenger to the family of the passenger to the extent that the Board or Amtrak considers appropriate.*

*(d) LIMITATION ON LIABILITY.—Amtrak shall not be liable for damages in any action brought in a Federal or State court arising out of the performance of Amtrak in preparing or providing a passenger list, or in providing information concerning a train reservation, pursuant to a plan submitted by Amtrak under subsection (b), unless such liability was caused by Amtrak's conduct.*

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

*(f) FUNDING.—There shall be made available to the Secretary of Transportation for the use of Amtrak \$500,000 for fiscal year 2007 to carry out this section. Amounts made available pursuant to this subsection shall remain available until expended.*

