

117TH CONGRESS
1ST SESSION

H. R. 5532

To provide for a National Disaster Safety Board.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 8, 2021

Ms. PORTER (for herself, Ms. MACE, and Mr. GARAMENDI) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To provide for a National Disaster Safety Board.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “National Disaster
5 Safety Board Act of 2021”.

6 **SEC. 2. ESTABLISHMENT AND PURPOSE.**

7 (a) ORGANIZATION.—There is established in the exec-
8 utive branch a National Disaster Safety Board, which
9 shall be an independent establishment, as defined in sec-
10 tion 104 of title 5, United States Code.

11 (b) PURPOSE.—The purposes of the Board are—

1 (1) to reduce loss of life, injury, and economic
2 injury caused by future incidents by learning from
3 natural hazards, including the impacts and under-
4 lying factors of such incidents, in a standardized
5 way;

6 (2) to maintain a focus that is future-looking
7 and national in scope, by applying what the Board
8 learns through the trends that emerge from the inci-
9 dents the Board reviews nationally to prevent loss of
10 life, or human or economic injury, not only in the af-
11 fected jurisdiction, but nationally, as the Board de-
12 termines relevant;

13 (3) in carrying out reviews, analyses, and rec-
14 ommendations, not to be accusatory in nature and
15 the Board shall not seek to find blame in any indi-
16 vidual or organization, or second-guess any relevant
17 authorities;

18 (4) to address systemic causes behind the loss
19 of life and human or economic injury in incidents,
20 including by recommending the augmentation of re-
21 sources available to entities responsible for man-
22 aging incident consequences; and

23 (5) while preventing economic injury as part of
24 the mission of the Board, when relevant, to prioritize
25 efforts that focus on lifesaving and injury preven-

1 tion, especially in disproportionately impacted com-
2 munities, as its work determines them to be.

3 **SEC. 3. GENERAL AUTHORITY.**

4 (a) AUTHORITY TO REVIEW.—

5 (1) IN GENERAL.—Subject to subsection (b),
6 the Board shall review and establish the facts, cir-
7 cumstances, and cause or probable cause of the loss
8 of life, human injury, and economic injury due to a
9 natural hazard with 10 or more fatalities or that
10 meets the requirements described in paragraph (5)
11 or (6) of subsection (b) that occurs after the date
12 of enactment of this Act.

13 (2) DUE TO A NATURAL HAZARD INCIDENT DE-
14 FINED.—For purposes of paragraph (1), the term
15 “due to a natural hazard” means a fatality that, if
16 not for the natural hazard incident, as the case may
17 be, would not have occurred within the time frame
18 of the incident, as defined by standards developed by
19 the Board.

20 (b) DETERMINATION OF WHETHER INCIDENT WAR-
21 RANTS BOARD REVIEW.—In carrying out subsection (a),
22 the Board—

23 (1) may begin the review of an incident, includ-
24 ing by monitoring the natural hazard and collecting
25 facts, before the total number of fatalities is known

1 if the Board determines that the natural hazard in-
2 cident has the potential to cause 10 or more fatali-
3 ties at its onset, in accordance with the policies and
4 procedures established by the Board;

5 (2) may, by a two-thirds vote, decide that an in-
6 cident that caused 10 or more fatalities does not re-
7 quire a review and shall issue a public statement ex-
8 plaining the determination;

9 (3) may, by a majority vote, decide to review
10 any natural hazard incident that occurs after the
11 date of enactment of this Act upon request from a
12 representative of an affected State, Tribal govern-
13 ment, or unit of local government, regardless of the
14 number of fatalities;

15 (4) may, by a majority vote, decide to review
16 any natural hazard incident that occurs after the
17 date of enactment of this Act upon recommendation
18 by the Office for the Protection of Disproportion-
19 ately Impacted Communities of the Board, which the
20 Office may make because of the incident's impacts
21 on populations that are socially, medically, or eco-
22 nomically vulnerable, as decided by the Office; and

23 (5) may, by a majority vote, decide to review a
24 natural hazard incident that occurs after the date of
25 enactment of this Act if—

1 (A) the Board determines that information
2 may be gained by the review that will be useful
3 in reducing systemic causes behind the loss of
4 life and human or economic injury; and

5 (B) the incident—

6 (i) did not result in 10 or more fatali-
7 ties; and

8 (ii)(I) could have resulted in a large
9 number of fatalities if not for swift inter-
10 vention or a shift in the course of events;
11 or

12 (II) resulted in, as determined by the
13 Board—

14 (aa) a significant amount of eco-
15 nomic or infrastructure damage;

16 (bb) significant human displace-
17 ment; or

18 (cc) a significant number of se-
19 vere non-fatal injuries or cases of se-
20 vere illness; and

21 (6) shall, by majority vote, determine whether
22 each incident for which the President issues a major
23 disaster declaration under section 401 of the Robert
24 T. Stafford Disaster Relief and Emergency Assist-

1 ance Act (42 U.S.C. 5170) meets the criteria for re-
2 view under paragraph (5).

3 (c) NATURE OF REVIEW.—

4 (1) IN GENERAL.—In carrying out a review
5 under this Act, the Board shall—

6 (A) conduct the review to determine the
7 facts, conditions, and circumstances relating to
8 the loss of life, human injury, and economic in-
9 jury due to an incident;

10 (B) following an initial assessment of an
11 incident by the Board, notify any individual or
12 organization that the Board anticipates will be
13 affected by the review as to the extent of the
14 expected review response of the Board;

15 (C) use the results of the review under
16 subparagraph (A) to—

17 (i) determine how and why people die
18 and are injured during an incident; and

19 (ii) issue recommendations to prevent
20 or mitigate the loss of life, human injury,
21 or economic injury due to similar incidents;
22 and

23 (D) report on the facts and circumstances
24 of the incident review, including the pre-inc-

1 dent resilience or vulnerabilities of the incident
2 area or population.

3 (2) GENERALIZED NATURE OF REVIEWS.—A
4 review of loss of life and injury conducted by the
5 Board shall—

6 (A) be generalized;

7 (B) focus on trends across an incident; and

8 (C) not aim to determine the exact indi-
9 vidual cause of death or injury of any affected
10 people.

11 (3) FACT-FINDING PROCEEDING.—Any review
12 of an incident by the Board under this Act shall be
13 a fact-finding proceeding with no adverse parties.

14 (4) LIMITATION OF APPLICABILITY OF OTHER
15 ACTS.—

16 (A) ADMINISTRATIVE PROCEDURE ACT.—
17 Any review proceedings of the Board under this
18 Act shall not be—

19 (i) subject to the Administrative Pro-
20 cedure Act (5 U.S.C. 551 et seq.); or

21 (ii) conducted for the purpose of de-
22 termining the rights, liabilities, or blame of
23 any person, as the review is not an adju-
24 dicatory proceeding.

(B) PAPERWORK REDUCTION ACT.—Chapter 35 of title 44, United States Code (commonly known as the “Paperwork Reduction Act”), shall not apply to the review proceedings of the Board under this Act.

(C) FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Board.

(5) INITIATING REVIEWS.—The Board shall initiate a review of an incident by monitoring the situation and assessing available facts to determine the appropriate review response, without interfering in any ongoing lifesaving and life sustaining efforts underway by other entities.

(6) ALIGNMENT AND COORDINATION.—In carrying out this Act, the Board shall coordinate with Federal, State, local, and Tribal entities to—

(A) establish or adopt standard methods of measuring the impacts of natural hazards and accessing response capacity and capabilities to maintain consistency and allow for the analysis of trends over time;

(B) ensure that the standard data sets and formats necessary for reviews developed under subparagraph (A) are propagated among Fed-

1 eral, State, local, and tribal entities that may be
2 involved in response operations;

3 (C) leverage, to the extent practicable,
4 data collected using standard data sets and for-
5 mats established under subparagraph (B) by
6 Federal entities involved in response operations
7 to avoid any duplication of data collection; and

8 (D) during incident response operations,
9 coordinate with partners active in the operation
10 to collect data remotely or take other actions
11 that the Board finds necessary to align and co-
12 ordinate the requirements of the review with
13 ongoing operations, including through the re-
14 quirements of paragraph (7).

15 (7) INCIDENT COMMAND.—The Board shall—

16 (A) recognize the role of incident command
17 systems to address incidents;

18 (B) observe the incident command system
19 to identify and coordinate review needs related
20 to the preservation and collection of information
21 and evidence; and

22 (C) shall collect information and evidence
23 from the incident command in a timely and rea-
24 sonable manner so as not to interfere with the
25 operations of the incident command.

1 (8) PARTIES TO THE REVIEW.—

2 (A) PARTICIPANTS.—Subject to subpara-
3 graph (B), the Board may invite one or more
4 entities to serve as a party in a review on a vol-
5 untary basis, and any party participant shall be
6 required to follow all directions and instructions
7 from the Board.

8 (B) ELIGIBLE ENTITY.—In designating an
9 entity to serve as a party under subparagraph
10 (A), the Board may designate only a Federal,
11 State, or local government agency or private or-
12 ganization whose employees, functions, activi-
13 ties, or products were involved in the incident,
14 including responsible parties, and that can pro-
15 vide suitable qualified technical personnel to ac-
16 tively assist in the review.

17 (C) REPRESENTATIVES OF ELIGIBLE ENTI-
18 TIES.—To the extent practicable, a representa-
19 tive proposed by an entity designated as a party
20 under subparagraph (A) to participate in the
21 review may not be an individual who had direct
22 involvement in the incident under review.

23 (D) REVOCATION OF PARTY STATUS.—A
24 designation as a party under subparagraph (A)
25 may be revoked or suspended by the Board if

1 the party fails to comply with assigned duties
2 and instructions, withholds information, or oth-
3 erwise acts in a manner prejudicial or disrup-
4 tive to a review.

5 (E) RULE OF CONSTRUCTION.—Nothing in
6 this paragraph shall be construed to establish a
7 right for any entity to participate in a Board
8 review as a party.

9 (F) INTERNAL REVIEW BY A PARTY.—To
10 assure coordination of concurrent efforts, a
11 party to a review that conducts or authorizes an
12 internal review of the processes and procedures
13 of the party as a result of an incident that the
14 Board is reviewing shall—

15 (i) inform the Board of the nature of
16 the review; and

17 (ii) provide to the Board findings
18 from the review.

19 (9) REVIEW PROCEDURES.—In addition to any
20 procedures required under this Act, the Board shall
21 determine and publish detailed review procedures as
22 the Board determines necessary.

23 (10) PRODUCTS.—The Board may use any me-
24 dium that will effectively convey the findings and

1 recommendations of the Board to the targeted audi-
2 ence of such findings or recommendations.

3 (d) REVIEW BY AFFECTED AUTHORITIES.—

4 (1) IN GENERAL.—When the Board has com-
5 pleted the findings and recommendations or other
6 products as a result of a review under this Act, the
7 Board shall provide all affected States, Tribal gov-
8 ernments, and units of local government, or their
9 designees, an opportunity to review and comment
10 not later than 30 days before the publication of the
11 findings or recommendations.

12 (2) REQUIREMENT.—The Board shall make
13 every reasonable effort, within its discretion, to re-
14 spond to requests for additional information and
15 context that an affected jurisdiction may make and
16 to edit their findings and recommendations with any
17 useful additional information or context provided by
18 any affected jurisdiction in its comments without af-
19 fecting the integrity or independence of the review
20 and its findings and recommendations, as the Board
21 shall determine.

22 (e) DISPROPORTIONATELY IMPACTED COMMU-
23 NITIES.—

24 (1) IN GENERAL.—In carrying out a review of
25 an incident under this section, including in deter-

1 mining whether to launch a review, the Board shall
2 ensure the potential development of findings that
3 would benefit the prevention of loss of life and
4 human or economic injury to populations that are
5 socially, medically, or economically vulnerable, as de-
6 cided by the Board.

7 (2) DATA REQUIREMENT.—To forward the
8 analysis and identification of trends of fatalities and
9 injuries as a result of incidents, the Board shall pub-
10 lish information regarding the number of fatalities
11 and injuries, and the facts and circumstances sur-
12 rounding them, disaggregated by race, color or eth-
13 nicity, religion, nationality, sex, age, disability,
14 English proficiency, occupation, or economic status,
15 and other demographic characteristics that the
16 Board may determine appropriate.

17 (f) COORDINATION WITH OTHER REVIEWS AND IN-
18 VESTIGATIONS.—

19 (1) IN GENERAL.—Subject to the requirements
20 of this section, a review of a natural hazard incident
21 by the Board under subsection (a)(1) shall have pri-
22 ority over any investigation by another department,
23 agency, or instrumentality of the Federal Govern-
24 ment or a State, Tribal, or local government.

1 (2) PARTICIPATION BY OTHER AGENCIES.—The
2 Board shall provide for appropriate participation by
3 other departments, agencies, or instrumentalities in
4 a review conducted by the Board, except that an-
5 other department, agency, or instrumentality may
6 not influence the final findings of the Board.

7 (3) COORDINATION.—The Board shall coordi-
8 nate with all other Federal, State, Tribal, or local le-
9 gally mandated investigations or reviews and may
10 share information with those entities, according to
11 policies and procedures that the Board will provide,
12 to ensure that appropriate findings and recommen-
13 dations to reduce loss of life, injury, and economic
14 injury caused by future incidents are produced as ef-
15 ficiently as possible.

16 (4) MEMORANDA OF UNDERSTANDING.—Not
17 later than 1 year after the date of enactment of this
18 Act, and biennially thereafter, the Chairman of the
19 Board shall enter into memoranda of understanding
20 with the Director of the National Institute of Stand-
21 ards and Technology, the Administrator of the Fed-
22 eral Emergency Management Agency, the Chairman
23 of the Chemical Safety Board, and the Chairman of
24 the National Transportation Safety Board, respec-
25 tively, and may enter into additional memoranda of

1 understanding with any other Federal entity that re-
2 quests such due to the relationship that the require-
3 ments of the Federal entity may have with the re-
4 quirements with the Board, in order to—

5 (A) determine the appropriate roles and re-
6 sponsibilities of the Board with respect to the
7 other agency or board;

8 (B) avoid any duplication of effort; and

9 (C) ensure that appropriate findings and
10 recommendations to reduce loss of life, injury,
11 and economic injury caused by future incidents
12 are provided.

13 (g) PARTICIPATION IN SUPPORT OF ANOTHER AGEN-
14 CY.—

15 (1) IN GENERAL.—

16 (A) INVESTIGATION OF ACTS OF VIO-
17 LENCE.—The Board may participate in an in-
18 vestigation of an act of violence in support of
19 another Federal department or agency, or other
20 Federal investigative body with statutory au-
21 thority to lead such an investigation, if the head
22 of the lead investigative agency determines that
23 the participation of the Board would be bene-
24 ficial to reduce the likelihood of the loss of life

1 and human or economic injury, for future simi-
2 lar incidents.

3 (B) INVESTIGATION OF TECHNOLOGICAL
4 INCIDENTS.—

5 (i) IN GENERAL.—The Board may
6 participate in an investigation of a techno-
7 logical incident—

8 (I) in support of another Federal
9 department or agency, or other Fed-
10 eral investigative body with statutory
11 authority to lead such an investiga-
12 tion, if the head of the lead investiga-
13 tive agency determines that the par-
14 ticipation of the Board would be bene-
15 ficial to reduce the likelihood of the
16 loss of life and human or economic in-
17 jury, for future similar incidents; or

18 (II) in the case of no statutory
19 authority for another Federal depart-
20 ment or agency, or other Federal in-
21 vestigative body, to lead such an in-
22 vestigation, as the lead investigative
23 entity.

24 (ii) MEMORANDA OF UNDER-
25 STANDING.—Not later than 1 year after

1 the date of enactment of this Act, and bi-
2 ennially thereafter, the Chairman of the
3 Board shall enter into memoranda of un-
4 derstanding with the heads of appropriate
5 Federal agencies in order to—

6 (I) determine the appropriate
7 roles and responsibilities of the Board
8 in investigating technological incidents
9 with respect to the other agency;

10 (II) avoid any duplication of ef-
11 fort; and

12 (III) ensure that appropriate
13 findings and recommendations to re-
14 duce loss of life, injury, and economic
15 injury caused by future incidents are
16 provided.

17 (2) FINDINGS.—If the Board participates in an
18 act of violence or technological incident investigation
19 under subparagraph (A), the Board may issue inde-
20 pendent findings and recommendations notwith-
21 standing the outcome of any investigation conducted
22 by another Federal agency or other Federal inves-
23 tigative body.

24 (3) CRIMINAL CIRCUMSTANCES.—If the Attor-
25 ney General, in consultation with the Chairperson,

1 determines and notifies the Board that circum-
2 stances reasonably indicate that the act of violence
3 or technological incident described in subparagraph
4 (A) may have been caused by an intentional criminal
5 act, the Board shall relinquish investigative priority
6 to the responsible Federal law enforcement entity.

7 (4) RULE OF CONSTRUCTION.—This section
8 shall not be construed to affect the authority of an-
9 other department, agency, or instrumentality of the
10 Federal Government to investigate an incident under
11 applicable law or to obtain information directly from
12 the parties involved in, and witnesses to, the inci-
13 dent. The Board and other departments, agencies,
14 and instrumentalities shall ensure that appropriate
15 information developed about the incident is ex-
16 changed in a timely manner.

17 (h) TECHNICAL ASSISTANCE.—The Board may make
18 the following types of technical assistance available to
19 Federal, State, Tribal, and local government agencies and
20 to private entities as designated by a Federal, State, Trib-
21 al, or local government agency:

22 (1) INDEPENDENT REVIEW.—The Board shall
23 disseminate best practices to develop disaster inves-
24 tigation and review capacity within State, Tribal,
25 and local governments.

1 (2) IMPLEMENTATION OF RECOMMENDA-
2 TIONS.—The Board—

3 (A) may provide technical assistance to
4 any entity identified as responsible for imple-
5 menting a recommendation under section
6 4(a)(1) to assist the entity in implementing the
7 recommendation; and

8 (B) to the extent possible, shall provide the
9 technical assistance described in subparagraph
10 (A) in coordination with technical assistance of-
11 fered by another Federal department or agency.

12 (3) PRIORITIZATION.—In offering technical as-
13 sistance under this subsection, the Board shall use
14 a risk-based method of prioritization, as the Board
15 determines appropriate.

16 (i) FINDINGS.—

17 (1) IN GENERAL.—Except as provided in para-
18 graph (2), not later than 1 year after the date on
19 which the Board initiates a review conducted under
20 this section, the Board shall make the findings and
21 relevant underlying data of the review available to
22 the public.

23 (2) EXTENSION OF DEADLINE.—The Chair-
24 person of the Board may extend the 1-year period

1 described in paragraph (1) if the Chairperson, before
2 the end of such 1-year period—

3 (A) provides an explanation for the exten-
4 sion; and

5 (B) makes available to the public all avail-
6 able interim findings and underlying data.

7 **SEC. 4. RECOMMENDATIONS AND RESPONSES.**

8 (a) IN GENERAL.—If the Board issues a recommen-
9 dation about an incident, the Board shall—

10 (1) explain the relationship between any rec-
11 ommendation and the results of a fact-finding re-
12 view;

13 (2) identify each relevant entity responsible for
14 making the change called for in the recommenda-
15 tion, including State, local, or private entities, as ap-
16 propriate;

17 (3) publish any responses to the recommenda-
18 tion publicly; and

19 (4) assess whether the responses adequately
20 lower the likelihood that a future similar incident
21 will result in loss of life, or human or economic in-
22 jury in the view of the Board.

23 (b) FEDERAL RESPONSES TO RECOMMENDATIONS.—

24 (1) IN GENERAL.—All Federal departments and
25 agencies identified in a recommendation made by the

1 Board shall reply to the recommendations not later
2 than 90 days after the date on which the rec-
3 ommendation is published by the Board.

4 (2) RESPONSE DESCRIBED.—A response under
5 paragraph (1) made by a Federal department or
6 agency shall include—

7 (A) whether the department or agency in-
8 tends to adopt the recommendation in whole, in
9 part, or not at all;

10 (B) an explanation of the reasons for only
11 adopting the recommendation in part or not at
12 all; and

13 (C) a proposed timetable for completing
14 the action the Federal department or agency
15 has agreed to.

16 (3) PROGRESS UPDATES.—A Federal depart-
17 ment or agency that agrees to adopt a recommenda-
18 tion of the Board shall—

19 (A) track the progress of the department
20 or agency toward completion; and

21 (B) provide an update to the Board, to be
22 published publicly, periodically, and not less fre-
23 quently than annually.

24 (c) PUBLIC AVAILABILITY.—

1 (1) IN GENERAL.—Not later than 1 year after
2 the date on which a final determination is made on
3 a recommendation under this section, the Board
4 shall make a copy of the recommendation and re-
5 sponse to the recommendation available to the pub-
6 lic.

7 (2) EXTENSION OF DEADLINE.—The Chair-
8 person of the Board may extend the 1-year period
9 described in paragraph (1) if the Chairperson, before
10 the end of such 1-year period—

11 (A) provides an explanation for the exten-
12 sion; and

13 (B) makes available to the public any
14 available interim response to the recommenda-
15 tion and underlying data.

16 (d) DISSEMINATION.—The Board shall propagate
17 each recommendation issued under this section, including
18 by—

19 (1) incorporating the recommendation, and any
20 related findings, into training material used by Fed-
21 eral, State, Tribal, and private training facilities
22 specializing in building resilience to and responding
23 to and recovering from natural hazards, as the
24 Board deems appropriate;

1 (2) coordinating with professional associations
 2 related to building resilience to and responding to
 3 and recovering from natural hazards;

4 (3) collaborating with relevant Federal, State,
 5 and Tribal authorities and private organizations;
 6 and

7 (4) coordinating with private and public institu-
 8 tions of higher education and research institutions.

9 **SEC. 5. REPORTS AND STUDIES.**

10 (a) STUDIES AND OTHER REPORTS.—

11 (1) IN GENERAL.—The Board shall annually
 12 submit a report containing the information described
 13 in paragraph (2) to—

14 (A) Congress;

15 (B) any department, agency, or instrumen-
 16 tality of the Federal Government concerned
 17 with natural hazards;

18 (C) all State and Tribal governments; and

19 (D) the general public.

20 (2) INFORMATION DESCRIBED.—The informa-
 21 tion described in this paragraph is—

22 (A) the results of special studies on how to
 23 reduce morbidity and mortality from incidents;

24 (B) an examination of techniques and
 25 methods of evaluating measures to protect the

1 public from incidents and periodically publish
2 recommended procedures for reviews;

3 (C) evaluation and examination of the ef-
4 fectiveness of the findings of the Board about
5 the natural hazard resilience of other depart-
6 ments, agencies, and instrumentalities of the
7 Federal Government and their effectiveness in
8 preventing loss of life, or human or economic
9 injury; and

10 (D) recommend meaningful responses to
11 reduce the likelihood of loss of life, or human
12 or economic injury, according to the findings of
13 the above-mentioned research, including na-
14 tional and regional policies and programs.

15 (b) BIENNIAL REPORT.—Not later than June 1,
16 2023, and once every 2 years thereafter, the Board shall
17 submit a report to Congress, which shall include—

18 (1) a statistical and analytical summary of the
19 reviews conducted and reviewed by the Board during
20 the prior 2 calendar years;

21 (2) a survey and summary of the recommenda-
22 tions made by the Board and the observed response
23 to each recommendation, including the classification,
24 containing a written justification and explanation of
25 each recommendation as—

1 (A) open, if, in the determination of the
2 Board, sufficient action to fulfill the intent of
3 the recommendation has not been taken and
4 still should be;

5 (B) closed, if, in the determination of the
6 Board, sufficient action to fulfill the intent of
7 the recommendation has been taken and no fur-
8 ther action is necessary; and

9 (C) outdated, if, in the determination of
10 the Board, the recommendation is no longer rel-
11 evant because of any change in circumstances
12 or actions by parties other than the intended
13 recipient of the recommendation;

14 (3) an assessment of efforts of Federal, State,
15 Tribal, and local governments to respond to rec-
16 ommendations made by the Board, if such entities
17 have voluntarily provided information to the Board
18 on the progress of the entity;

19 (4) a description of the training undertaken by
20 the Board and its staff and persons sponsored by
21 the Board;

22 (5) a list of natural hazards that caused 10 or
23 more fatalities that the Board did not review and a
24 recommendation with justification by the Board of

1 whether similar incidents should be reviewed in the
2 future;

3 (6) a recommendation on how, if at all, the
4 thresholds and triggers for a review by the Board
5 should change;

6 (7) an assessment of the sufficiency of Federal
7 resources provided to State, Tribal, and local gov-
8 ernments in aggregate relative to any vulnerabilities
9 that the Board determines the governments have;

10 (8) a list of all requests for review from Gov-
11 ernors of States and territories and chief executives
12 of Tribal governments or recommended by the office
13 established under section 6(f)(2) that the Board re-
14 jected, including comments and recommendations
15 from the Board regarding whether similar incidents
16 should be reviewed in the future; and

17 (9) a list of ongoing reviews that have exceeded
18 the expected time allotted for completion by Board
19 order and an explanation for the additional time re-
20 quired to complete each such review.

21 (c) DISSEMINATION.—The Board shall propagate the
22 information described in subsection (a)(2), including by—

23 (1) incorporating the information into training
24 material used by Federal, State, Tribal, and private
25 training facilities specializing in building resilience

1 to and responding to and recovering from natural
2 hazards, as the Board deems appropriate;

3 (2) coordinating with professional associations
4 related to building resilience to and responding to
5 and recovering from natural hazards;

6 (3) collaborating with relevant Federal, State,
7 and Tribal authorities and private organizations;
8 and

9 (4) coordinating with private and public institu-
10 tions of higher education and research institutions.

11 **SEC. 6. APPOINTMENT AND ORGANIZATION.**

12 (a) APPOINTMENT OF MEMBERS.—

13 (1) IN GENERAL.—The Board shall be com-
14 posed of 7 members, who shall, in accordance with
15 paragraph (2) and subject to paragraph (3), be ap-
16 pointed by the President, by and with the advice and
17 consent of the Senate.

18 (2) PROCEDURE.—

19 (A) INITIAL APPOINTMENTS.—The Presi-
20 dent shall, in consultation with the National
21 Academies of Sciences, Engineering, and Medi-
22 cine and relevant professional associations and
23 leaders in the private sector, appoint the 7
24 members of the Board from among a list of 14

1 individuals provided by both houses of Con-
2 gress, of which—

3 (i) the majority leader of the Senate
4 shall provide the names of 4 individuals;

5 (ii) the minority leader of the Senate
6 shall provide the names of 3 individuals;

7 (iii) the Speaker of the House of Rep-
8 resentatives shall provide the names of 4
9 individuals; and

10 (iv) the minority leader of the House
11 of Representatives shall provide the names
12 of 3 individuals.

13 (B) SUBSEQUENT APPOINTMENTS.—Any
14 vacancy of the Board shall be filled in the same
15 manner as the original appointment.

16 (3) REQUIREMENTS.—Of the 7 members ap-
17 pointed under paragraph (1)—

18 (A) not more than 4 members may be ap-
19 pointed from the same political party;

20 (B) all members shall be appointed on the
21 basis of technical qualification, professional
22 standing, and demonstrated knowledge in emer-
23 gency management, fire management, emer-
24 gency medical services, public-health, physical
25 sciences, social science, behavioral science, or

1 architectural and engineering with post-disaster
2 evaluation or building forensics expertise in
3 their respective field;

4 (C) a minimum of 2 members shall have
5 experience working at the State or municipal
6 level in 1 of the fields described in subpara-
7 graph (B); and

8 (D) a minimum of 2 members shall have
9 demonstrated professional experience working
10 with populations that have historically been
11 more vulnerable to incidents because of their
12 race, color, nationality, sex, age, disability,
13 English proficiency, or economic status.

14 (b) TERMS OF OFFICE AND REMOVAL.—

15 (1) TERM OF OFFICE.—Except as provided in
16 paragraph (2), the term of office of each member
17 shall be 5 years.

18 (2) FILLING OF VACANCY.—An individual ap-
19 pointed to fill a vacancy occurring before the expira-
20 tion of the term for which the predecessor of that
21 individual was appointed is appointed for the re-
22 mainder of that term.

23 (3) CONTINUATION UNTIL SUCCESSOR IS AP-
24 POINTED.—When the term of office of a member

1 ends, the member may continue to serve until a suc-
2 cessor is appointed and confirmed.

3 (4) REMOVAL.—The President may remove a
4 member only for inefficiency, neglect of duty, or
5 malfeasance in office. Immediately upon removing a
6 member of the Board, the President shall issue a
7 public statement that details how the actions of the
8 removed member met the criteria of this paragraph.

9 (c) CHAIRPERSON AND VICE CHAIRPERSON.—

10 (1) CHAIRPERSON.—The President shall des-
11 ignate, by and with the advice and consent of the
12 Senate, a member appointed under subsection (b) to
13 serve as the Chairperson of the Board.

14 (2) VICE CHAIRPERSON.—The President shall
15 designate a member appointed under subsection (b)
16 to serve as the Vice Chairperson of the Board and
17 if the Chairperson is absent or unable to serve, or
18 if the position of Chairperson is vacant, the Vice
19 Chairperson shall act as the Chairperson.

20 (3) TERM OF OFFICE.—The Chairperson and
21 Vice Chairperson shall each serve in such position
22 for a term of 3 years.

23 (d) DUTIES AND POWERS OF CHAIRPERSON.—

1 (1) IN GENERAL.—The Chairperson shall be the
2 chief executive and administrative officer of the
3 Board.

4 (2) POWERS.—Subject to the general policies
5 and decisions of the Board, the Chairperson shall—

6 (A) appoint and supervise officers and em-
7 ployees, other than regular and full-time em-
8 ployees in the immediate offices of another
9 member, necessary to carry out this Act;

10 (B) fix the pay of officers and employees
11 necessary to carry out this Act;

12 (C) distribute business among the officers,
13 employees, and administrative units of the
14 Board; and

15 (D) supervise the expenditures of the
16 Board.

17 (e) QUORUM.—

18 (1) IN GENERAL.—Subject to paragraphs (2)
19 and (3), 4 members of the Board shall constitute a
20 quorum for purposes of carrying out the duties and
21 powers of the Board, subject to the limitations in
22 the remainder of this subsection.

23 (2) PARTY LIMITATION.—Not less than 1 rep-
24 resentative from each party shall be present for a
25 quorum to be established.

1 (3) CHAIRPERSON.—Either the Chairperson or
2 Vice Chairperson shall be present for a quorum to
3 be established.

4 (f) OFFICES.—

5 (1) IN GENERAL.—The Board shall establish
6 such offices as are necessary to carry out this Act,
7 which may include offices responsible for—

8 (A) operations;

9 (B) science and methodology;

10 (C) review and evaluation;

11 (D) communications;

12 (E) external coordination; or

13 (F) technical assistance.

14 (2) OFFICE FOR THE PROTECTION OF DIS-
15 PROPORTIONATELY IMPACTED COMMUNITIES.—

16 (A) IN GENERAL.—The Board shall estab-
17 lish an office to review and make recommenda-
18 tions to mitigate and prevent the loss of life, or
19 human or economic injury for vulnerable popu-
20 lations, including populations that may be more
21 vulnerable because of their race, color, religion,
22 nationality, sex, age, disability, English pro-
23 ficiency, or economic status, or other demo-
24 graphic characteristics that the Board may de-
25 termine appropriate.

1 (B) RESPONSIBILITIES.—The office estab-
2 lished under paragraph (1) shall—

3 (i) provide recommendations to the
4 Board for incidents to review in accordance
5 with section 3(b)(4) that do not otherwise
6 meet the requirements of section 3(b);

7 (ii) determine and maintain a list spe-
8 cific demographic, economic, social, and
9 health characteristics of populations that
10 historically have shown to be disproportion-
11 ately impacted by incidents;

12 (iii) during a review conducted by the
13 Board, provide research and analysis on
14 how the incident impacts populations that
15 the Office determines to be disproportion-
16 ately impacted;

17 (iv) provide recommendations for each
18 review conducted by the Board and for
19 each report developed under section 5 on
20 actions that can be taken to reduce the im-
21 pact to populations that are found to be
22 disproportionately impacted under clause
23 (ii); and

24 (v) provide training, and establish
25 training requirements, for Board members

1 and staff in the fields of diversity, inclu-
2 sion, and equity in consultation with orga-
3 nizations specializing in those fields.

4 (3) REGIONAL OFFICES.—In establishing offices
5 under this subsection, the Board may establish re-
6 gional offices across the United States to facilitate
7 collaboration, coordination, and the dissemination of
8 findings, recommendations, and best practices to
9 State, Tribal, and local governments and the private
10 sector in such regions as the Board determines ap-
11 propriate.

12 (4) PURPOSE.—Each office established under
13 this subsection shall enable the Board to review, re-
14 port on, and issue recommendations to prevent the
15 loss of life, human injury, and economic injury and
16 deliver technical assistance to disseminate best prac-
17 tices in accordance with this Act.

18 (g) CHIEF FINANCIAL OFFICER.—The Chairperson
19 shall designate an officer or employee of the Board to
20 serve as the Chief Financial Officer, who shall—

21 (1) report directly to the Chairperson on finan-
22 cial management and budget execution;

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

1 (3) review the fees, rents, and other charges im-
2 posed by the Board for services and things of value
3 it provides and suggest appropriate revisions to
4 those charges to reflect costs incurred by the Board
5 in providing those services and things of value.

6 (h) BOARD MEMBER STAFF.—

7 (1) IN GENERAL.—Each member of the Board
8 shall appoint and supervise regular and full-time em-
9 ployees in the immediate office of the member as
10 long as any such employee has been approved for
11 employment by the designated agency ethics official
12 under the same guidelines that apply to all employ-
13 ees of the Board.

14 (2) DESIGNATION.—With respect to an indi-
15 vidual appointed under paragraph (1)—

16 (A) the member of the Board making the
17 appointment shall determine which grade of the
18 General Schedule most closely corresponds with
19 respect to the duties and functions of the posi-
20 tion to which the individual is appointed; and

21 (B) during the period of the appoint-
22 ment—

23 (i) the individual shall be compensated
24 at the appropriate rate of pay for the
25 grade of the General Schedule with respect

1 to which the determination is made under
2 subparagraph (A); and

3 (ii) for the purposes of title 5, United
4 States Code, and the rules issued under
5 that title, the individual shall be considered
6 to be an employee, as that term is defined
7 in section 5331(a) of title 5, United States
8 Code.

9 (3) LIMITATION.—Except for the Chairperson,
10 the appointment authority in paragraph (1) shall be
11 limited to the number of full-time equivalent posi-
12 tions, in addition to 1 senior professional staff posi-
13 tion at a level not to exceed the GS–15 level of the
14 General Schedule and 1 administrative staff posi-
15 tion, allocated to each member of the Board through
16 the annual budget and allocation process of the
17 Board.

18 (i) DETAILED STAFF.—

19 (1) FEDERAL EMPLOYEES.—

20 (A) IN GENERAL.—Upon request of the
21 Board, the head of an agency described in sub-
22 paragraph (B), or any other Federal depart-
23 ment or agency that the Board may request,
24 may detail, on a reimbursable basis, any of the
25 personnel of that department or agency to the

1 Board to assist the Board in carrying out the
2 duties of the Board under this Act.

3 (B) RELEVANT AGENCIES.—For purposes
4 of subparagraph (A), the following are agencies
5 described in this subparagraph:

6 (i) The Federal Emergency Manage-
7 ment Agency.

8 (ii) The Cybersecurity and Infrastruc-
9 ture Security Agency of the Department of
10 Homeland Security.

11 (iii) The National Oceanic and Atmos-
12 pheric Administration, including the Na-
13 tional Weather Service.

14 (iv) The Department of Defense, in-
15 cluding the Army Corps of Engineers.

16 (v) The Department of Health and
17 Human Services.

18 (vi) The National Institutes of
19 Health.

20 (vii) The Centers for Disease Control
21 and Prevention.

22 (viii) The Coast Guard.

23 (ix) The National Transportation
24 Safety Board.

1 (x) The National Institute of Stand-
2 ards and Technology.

3 (xi) The Government Accountability
4 Office.

5 (xii) The Department of the Interior,
6 including the United States Geological
7 Survey.

8 (xiii) Any Office of the Inspector Gen-
9 eral.

10 (xiv) The Small Business Administra-
11 tion.

12 (xv) The Chemical Safety and Hazard
13 Investigation Board.

14 (xvi) The Department of Housing and
15 Urban Development.

16 (xvii) The Department of Agriculture.

17 (2) STATE, LOCAL, TRIBAL, AND RESEARCH
18 STAFF.—

19 (A) IN GENERAL.—The Board may enter
20 into agreements with State, local, and Tribal
21 governments and relevant nonprofit institutions
22 of higher education and research institutions to
23 request staff, with specialized experience that
24 the Board determines relevant, to be detailed to
25 the Board, on a reimbursable basis, and shall

1 consult with relevant associations and organiza-
2 tions of those entities in developing an efficient
3 process for requesting and receiving detailed
4 staff.

5 (B) COMPENSATION.—The Board shall en-
6 sure that any staff members detailed to the
7 Board under this paragraph are compensated
8 equitably and shall pay differences in salaries
9 based on the experience of said staff and in
10 consultation with the Office of Personnel Man-
11 agement.

12 (3) TERM OF DETAIL.—Any staff member de-
13 tailed to the Board under this section shall be de-
14 tailed for a term of 1 year and such detail may be
15 extended for not more than two 1-year terms.

16 (4) LIMITATIONS.—Under this subsection—

17 (A) not more than 25 percent of the total
18 number of staff members working for the
19 Board at any time may be detailees or other-
20 wise nonpermanent staff;

21 (B) a detailee shall serve as an adviser or
22 supplemental professional staff in any office es-
23 tablished by the Board under subsection (g);
24 and

25 (C) a detailee may not—

1 (i) determine any final findings or rec-
2 ommendations; and

3 (ii) be the sole decisionmaker in re-
4 view or evaluation methodologies.

5 (j) SEAL.—The Board shall have a seal that shall be
6 judicially recognized.

7 (k) OPEN MEETINGS.—

8 (1) IN GENERAL.—Except as provided in para-
9 graph (2), the Board shall be considered an agency
10 for purposes of section 552b of title 5, United States
11 Code.

12 (2) NONPUBLIC COLLABORATIVE DISCUS-
13 SIONS.—

14 (A) IN GENERAL.—Notwithstanding sec-
15 tion 552b of title 5, United States Code, a ma-
16 jority of the members may hold a meeting that
17 is not open to public observation to discuss offi-
18 cial agency business, if—

19 (i) no formal or informal vote or other
20 official agency action is taken at the meet-
21 ing;

22 (ii) each individual present at the
23 meeting is a member or an employee of the
24 Board;

1 (iii) at least 1 member of the Board
2 from each political party is present at the
3 meeting, if applicable;

4 (iv) the General Counsel of the Board
5 is present at the meeting; and

6 (v) the records of the meeting, includ-
7 ing the names of the individuals in attend-
8 ance, time, place, and summary to be as
9 thorough as the Board determines to be
10 prudent, are posted publicly and online.

11 (B) DISCLOSURE OF NONPUBLIC COLLABO-
12 RATIVE DISCUSSIONS.—Except as provided
13 under subparagraphs (C) and (D), not later
14 than 2 business days after the conclusion of a
15 meeting under subparagraph (A), the Board
16 shall make available to the public, in a place
17 easily accessible to the public—

18 (i) a list of the individuals present at
19 the meeting; and

20 (ii) a summary of the matters, includ-
21 ing key issues, discussed at the meeting,
22 except for any matter the Board properly
23 determines may be withheld from the pub-
24 lic under section 552b(c) of title 5, United
25 States Code.

1 (C) SUMMARY.—If the Board properly de-
2 termines a matter may be withheld from the
3 public under section 552b(c) of title 5, United
4 States Code, the Board shall provide a sum-
5 mary with as much general information as pos-
6 sible on each matter withheld from the public.

7 (D) ACTIVE REVIEWS.—If a discussion
8 under subparagraph (A) directly relates to an
9 active review, the Board shall make the disclo-
10 sure under subparagraph (B) on the date the
11 Board adopts the final report.

12 (E) PRESERVATION OF OPEN MEETINGS
13 REQUIREMENTS FOR AGENCY ACTION.—Noth-
14 ing in this paragraph may be construed to limit
15 the applicability of section 552b of title 5,
16 United States Code, with respect to a meeting
17 of the members other than that described in
18 this paragraph.

19 (F) STATUTORY CONSTRUCTION.—Nothing
20 in this paragraph may be construed—

21 (i) to limit the applicability of section
22 552b of title 5, United States Code, with
23 respect to any information which is pro-
24 posed to be withheld from the public under
25 subparagraph (B)(ii); or

1 (ii) to authorize the Board to withhold
2 from any individual any record that is ac-
3 cessible to that individual under section
4 552a of title 5, United States Code.

5 **SEC. 7. METHODOLOGY.**

6 (a) IN GENERAL.—The Board shall conduct each re-
7 view, issue each recommendation, develop each report, and
8 deliver all technical assistance authorized under this Act
9 using the methods that are in accordance with relevant
10 professional best practices, including those by analogous
11 review organizations, academia, and government and pri-
12 vate organizations.

13 (b) REQUIRED REVIEW.—The Board shall—

14 (1) review, on a regular basis, the methodolo-
15 gies of the Board; and

16 (2) update the methodologies of the Board in
17 accordance with the findings of each review con-
18 ducted under paragraph (1).

19 (c) REQUIREMENT.—In establishing the methodolo-
20 gies of the Board under this section, the Board shall incor-
21 porate all relevant information from relevant Federal,
22 State, and local entities, including past experience with
23 similar incidents, exercises, risk assessments, and all other
24 past research and analysis.

1 (d) TRANSPARENCY.—The Chairperson shall include
2 with each review report in which a recommendation is
3 issued by the Board a methodology section detailing the
4 process and information underlying the selection of each
5 recommendation.

6 (e) ELEMENTS.—Except as provided in subsection
7 (f), the methodology section under subsection (a) shall in-
8 clude, for each recommendation—

9 (1) a brief summary of the Board’s collection
10 and analysis of the specific information most rel-
11 evant to the recommendation;

12 (2) a description of the Board’s use of external
13 information, including studies, reports, and experts,
14 other than the findings of a specific review, if any
15 were used to inform or support the recommendation,
16 including a brief summary of the specific resilience
17 benefits and other effects identified by each study,
18 report, or expert; and

19 (3) a brief summary of actions, including im-
20 portant examples, taken by regulated entities before
21 the publication of the recommendation, to the extent
22 such actions are known to the Board, that were con-
23 sistent with the recommendation.

24 (f) SAVINGS CLAUSE.—

1 (1) IN GENERAL.—Nothing in this section may
2 be construed—

3 (A) to delay publication of the findings,
4 cause, or probable cause of a Board review;

5 (B) to delay the issuance of an urgent rec-
6 ommendation that the Board has determined
7 must be issued to avoid immediate death, or
8 human or economic injury; or

9 (C) to limit the number of examples the
10 Board may consider before issuing a rec-
11 ommendation.

12 (2) LIMITATION.—Notwithstanding paragraph
13 (1), the Board shall publish the methodology re-
14 quired under this section not later than 30 days
15 after the date on which the review is initially pub-
16 lished.

17 **SEC. 8. ADMINISTRATIVE.**

18 (a) AUTHORITY.—

19 (1) IN GENERAL.—The Board, and when au-
20 thorized by the Board, a member of the Board, an
21 administrative law judge employed by or assigned to
22 the Board, or an officer or employee designated by
23 the Chairperson, may conduct hearings to carry out
24 this Act, administer oaths, and require, by subpoena
25 or otherwise, necessary witnesses and evidence.

1 (2) SUBPOENA AUTHORITY.—A witness or evi-
2 dence in a hearing under paragraph (1) of this sub-
3 section may be summoned or required to be pro-
4 duced from any place in the United States to the
5 designated place of the hearing. A witness sum-
6 moned under this subsection is entitled to the same
7 fee and mileage the witness would have been paid in
8 a court of the United States.

9 (3) REQUIREMENT.—A subpoena shall be
10 issued under the signature of the Chairperson or the
11 Chairperson’s designee, but may be served by any
12 person designated by the Chairperson.

13 (4) ENFORCEMENT.—If a person disobeys a
14 subpoena, order, or inspection notice of the Board,
15 the Board may bring a civil action in a district court
16 of the United States to enforce the subpoena, order,
17 or notice. An action under this paragraph may be
18 brought in the judicial district in which the person
19 against whom the action is brought resides, is found,
20 or does business. The court may punish a failure to
21 obey an order of the court to comply with the sub-
22 poena, order, or notice as a contempt of court.

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

1 (1) procure the temporary or intermittent serv-
2 ices of experts or consultants under section 3109 of
3 title 5, United States Code;

4 (2) make agreements and other transactions
5 necessary to carry out this Act without regard to
6 subsections (b), (c), and (d) of section 6101 of title
7 41, United States Code;

8 (3) use, when appropriate, available services,
9 equipment, personnel, and facilities of a department,
10 agency, or instrumentality of the United States Gov-
11 ernment on a reimbursable or other basis;

12 (4) confer with employees and use services,
13 records, and facilities of State and local govern-
14 mental authorities;

15 (5) appoint advisory committees composed of
16 qualified private citizens and officials of the Govern-
17 ment and State and local governments as appro-
18 priate;

19 (6) accept voluntary and uncompensated serv-
20 ices notwithstanding another law;

21 (7) make contracts with private entities to carry
22 out studies related to duties and powers of the
23 Board; and

24 (8) negotiate and enter into agreements with
25 individuals and private entities and departments,

1 agencies, and instrumentalities of the Federal Gov-
2 ernment, State, Tribal, and local governments, and
3 governments of foreign countries for the provision of
4 facilities, technical services, or training in research
5 theory and techniques, and require that such entities
6 provide appropriate consideration for the reasonable
7 costs of any facilities, goods, services, or training
8 provided by the Board.

9 (c) COLLECTION OF FUNDS.—The Board shall de-
10 posit in the Treasury of the United States amounts re-
11 ceived under subsection (b)(8) of this subsection to be
12 credited as offsetting collections to the appropriation of
13 the Board. The Board shall maintain an annual record
14 of collections received under subsection (b)(8).

15 (d) SUBMISSION OF CERTAIN COPIES TO CON-
16 GRESS.—

17 (1) IN GENERAL.—When the Board submits to
18 the President or the Director of the Office of Man-
19 agement and Budget a budget estimate, budget re-
20 quest, supplemental budget estimate, other budget
21 information, a legislative recommendation, prepared
22 testimony for congressional hearings, or comments
23 on legislation, the Board must submit a copy to
24 Congress at the same time.

1 (2) LIMITATION.—An officer, department,
2 agency, or instrumentality of the Government may
3 not require the Board to submit the estimate, re-
4 quest, information, recommendation, testimony, or
5 comments to another officer, department, agency, or
6 instrumentality of the Government for approval,
7 comment, or review before being submitted to Con-
8 gress.

9 (3) BUDGET PROCESS.—The Board shall de-
10 velop and approve a process for the Board’s review
11 and comment or approval of documents submitted to
12 the President, Director of the Office of Management
13 and Budget, or Congress under this subsection.

14 (e) LIAISON COMMITTEES.—The Chairperson may
15 determine the number of committees that are appropriate
16 to maintain effective liaison with other departments, agen-
17 cies, and instrumentalities of the Federal Government,
18 State and local governmental authorities, and independent
19 standard-setting authorities that carry out programs and
20 activities related to its work. The Board may designate
21 representatives to serve on or assist those committees.

22 (f) INQUIRIES.—The Board, or an officer or employee
23 of the Board designated by the Chairperson, may conduct
24 an inquiry to obtain information related to natural hazard
25 safety after publishing notice of the inquiry in the Federal

1 Register. The Board or designated officer or employee
2 may require by order a department, agency, or instrumen-
3 tality of the Federal Government, a State, Tribal, or local
4 governmental authority, or a person transporting individ-
5 uals or property in commerce to submit to the Board a
6 written report and answers to requests and questions re-
7 lated to a duty or power of the Board. The Board may
8 prescribe the time within which the report and answers
9 must be given to the Board or to the designated officer
10 or employee. Copies of the report and answers shall be
11 made available for public inspection.

12 (g) REGULATIONS.—The Board may prescribe regu-
13 lations to carry out this Act.

14 (h) OVERTIME PAY.—

15 (1) IN GENERAL.—Subject to the requirements
16 of this section and notwithstanding paragraphs (1)
17 and (2) of section 5542(a) of title 5, United States
18 Code, for an employee of the Board whose basic pay
19 is at a rate which equals or exceeds the minimum
20 rate of basic pay for GS–10 of the General Schedule,
21 the Board may establish an overtime hourly rate of
22 pay for the employee with respect to work performed
23 in the field (including travel to or from) and other
24 work that is critical to a review in an amount equal
25 to one and one-half times the hourly rate of basic

1 pay of the employee. All of such amount shall be
2 considered to be premium pay.

3 (2) LIMITATION ON OVERTIME PAY TO AN EM-
4 PLOYEE.—An employee of the Board may not re-
5 ceive overtime pay under paragraph (1), for work
6 performed in a calendar year, in an amount that ex-
7 ceeds 25 percent of the annual rate of basic pay of
8 the employee for such calendar year.

9 (3) BASIC PAY DEFINED.—In this subsection,
10 the term “basic pay” includes any applicable local-
11 ity-based comparability payment under section 5304
12 of title 5, United States Code (or similar provision
13 of law) and any special rate of pay under section
14 5305 of such title 5 (or similar provision of law).

15 (4) ANNUAL REPORT.—Not later than January
16 31, 2022, and annually thereafter, the Board shall
17 transmit to Congress a report identifying the total
18 amount of overtime payments made under this sub-
19 section in the preceding fiscal year, and the number
20 of employees whose overtime pay under this sub-
21 section was limited in that fiscal year as a result of
22 the 25 percent limit established by paragraph (2).

23 (i) ENTRY AND INSPECTION.—

24 (1) IN GENERAL.—An officer or employee of
25 the Board—

1 (A) on display of appropriate credentials
2 and written notice of authority, may—

3 (i) enter an area where an incident
4 has occurred;

5 (ii) take such actions as are necessary
6 to conduct a review under this section, so
7 long as the actions do not interfere with
8 ongoing lifesaving and life-sustaining oper-
9 ations; and

10 (iii) during reasonable hours, inspect
11 any record, including an electronic record,
12 process, control, or facility related to an in-
13 cident under this Act.

14 (2) REQUIREMENT.—The Board shall use ut-
15 most discretion to prevent interference with ongoing
16 response efforts, including by developing review pro-
17 cedures with input from relevant authorities nation-
18 wide.

19 **SEC. 9. DISCLOSURE, AVAILABILITY, AND USE OF INFORMA-**
20 **TION.**

21 (a) DISCLOSURE OF INFORMATION.—

22 (1) IN GENERAL.—Except as provided in sub-
23 sections (b), (c), (d), and (f) of this section, a copy
24 of a record, information, or review submitted or re-
25 ceived by the National Disaster Safety Board, or a

1 member or employee of the Board, shall be posted
2 publicly.

3 (2) RULE OF CONSTRUCTION.—Nothing in this
4 subsection shall be construed to require the release
5 of information described in section 552(b) of title 5,
6 United States Code, or protected from disclosure by
7 another law of the United States.

8 (b) TRADE SECRETS.—

9 (1) IN GENERAL.—The Board may disclose in-
10 formation related to a trade secret referred to in sec-
11 tion 1905 of title 18, United States Code, only—

12 (A) to another department, agency, or in-
13 strumentality of the United States Government
14 when requested for official use;

15 (B) to a committee of Congress having ju-
16 risdiction over the subject matter to which the
17 information is related, when requested by that
18 committee;

19 (C) in a judicial proceeding under a court
20 order that preserves the confidentiality of the
21 information without impairing the proceeding;
22 and

23 (D) to the public to protect health and
24 safety after giving notice to any interested per-
25 son to whom the information is related and an

1 opportunity for that person to comment in writ-
2 ing, or orally in closed session, on the proposed
3 disclosure, if the delay resulting from notice
4 and opportunity for comment would not be det-
5 rimental to health and safety.

6 (2) REQUIREMENT.—Information disclosed
7 under paragraph (1) of this subsection may be dis-
8 closed only in a way designed to preserve its con-
9 fidentiality.

10 (3) PROTECTION OF VOLUNTARY SUBMISSION
11 OF INFORMATION.—Notwithstanding any other pro-
12 vision of law, neither the Board, nor any agency re-
13 ceiving information from the Board, shall disclose
14 voluntarily provided safety-related information if
15 that information is not related to the exercise of the
16 Board’s review authority under this Act and if the
17 Board finds that the disclosure of the information
18 would inhibit the voluntary provision of that type of
19 information.

20 (c) RECORDINGS AND TRANSCRIPTS.—

21 (1) CONFIDENTIALITY OF RECORDINGS.—Ex-
22 cept as provided in paragraph (2), the Board may
23 not disclose publicly any part of an original record-
24 ing or transcript of oral communications or original
25 and contemporary written communications between

1 Federal, State, Tribal, or local officials responding
2 to an incident under review by the Board.

3 (2) EXCEPTION.—Subject to subsections (b)
4 and (g), the Board shall make public any part of a
5 transcript, any written depiction of visual informa-
6 tion obtained from an audio or video recording, or
7 any still image obtained from a recording the Board
8 decides is relevant to the incident—

9 (A) if the Board holds a public hearing on
10 the incident at the time of the hearing; or

11 (B) if the Board does not hold a public
12 hearing, at the time a majority of the other fac-
13 tual reports on the incident are placed in the
14 public docket.

15 (3) REFERENCES TO INFORMATION IN MAKING
16 SAFETY RECOMMENDATIONS.—This subsection does
17 not prevent the Board from referring at any time to
18 recorded or written information in making safety
19 recommendations.

20 (d) FOREIGN REVIEWS.—

21 (1) IN GENERAL.—Notwithstanding any other
22 provision of law, neither the Board, nor any agency
23 receiving information from the Board, shall disclose
24 records or information relating to its participation in
25 foreign incident review, except that—

1 (A) the Board shall release records per-
2 taining to such a review when the country con-
3 ducting the review issues its final report or 2
4 years following the date of the incident, which-
5 ever occurs first; and

6 (B) the Board may disclose records and in-
7 formation when authorized to do so by the
8 country conducting the review.

9 (2) SAFETY RECOMMENDATIONS.—Nothing in
10 this subsection shall restrict the Board at any time
11 from referring to foreign review information in mak-
12 ing safety recommendations.

13 (e) PRIVACY PROTECTIONS.—Before making public
14 any still image obtained from a video recorder under sub-
15 section (c)(2) or subsection (d)(2), the Board shall take
16 such action as appropriate to protect from public disclo-
17 sure any information that readily identifies an individual,
18 including a decedent.

19 **SEC. 10. TRAINING.**

20 (a) USE OF TRAINING FACILITIES.—The Board may
21 use, on a reimbursable basis, the services of any training
22 facility in the Federal Government, including those oper-
23 ated by the Department of Homeland Security, Depart-
24 ment of Health and Human Services, and Department of
25 Commerce. The responsible department or agency shall

1 make such training facility and any relevant training
2 course available to—

3 (1) the Board for safety training of employees
4 of the Board in carrying out their duties and pow-
5 ers; and

6 (2) other relevant personnel of the United
7 States Government, State and local governments,
8 governments of foreign countries, interstate authori-
9 ties, and private organizations the Board designates
10 in consultation with the relevant departments and
11 agencies.

12 (b) FEES.—Training shall be provided at a reason-
13 able fee established periodically by the Board in consulta-
14 tion with the relevant departments and agencies. The fee
15 shall be paid directly to the relevant departments and
16 agencies, and shall be deposited in the Treasury.

17 (c) TRAINING OF BOARD EMPLOYEES AND OTH-
18 ERS.—The Board may conduct training of its employees
19 in those subjects necessary for proper performance. The
20 Board may also authorize attendance at courses given
21 under this subsection by other government personnel, per-
22 sonnel of foreign governments, and personnel from indus-
23 try or otherwise who have a requirement for training. The
24 Board may require non-Board personnel to reimburse
25 some or all of the training costs, and amounts so reim-

1 bursed shall be credited to the appropriation of the Board
2 as offsetting collections.

3 **SEC. 11. FUNDING.**

4 (a) IN GENERAL.—The Secretary of Transportation
5 shall transfer grant funds identified pursuant to the
6 GONE Act (Public Law 114–117) that have not been ex-
7 pended to the Board to carry out this Act in the following
8 amounts:

9 (1) \$25,000,000 for fiscal year 2022.

10 (2) \$40,000,000 for fiscal year 2023.

11 (3) \$50,000,000 for fiscal year 2024.

12 (4) \$60,000,000 for fiscal year 2025.

13 (b) REPORT.—Not later than 1 year after the date
14 of enactment of this Act, and annually thereafter, the Sec-
15 retary shall submit to Congress a report containing—

16 (1) the amount of funds transferred pursuant
17 to subsection (a); and

18 (2) the grant or account for which each trans-
19 ferred amount was initially made available.

20 (c) EMERGENCY FUND.—

21 (1) IN GENERAL.—There shall be established in
22 the Treasury of the United States an Emergency
23 Fund for the Board, which shall be available to the
24 Board for necessary expenses of the Board, not oth-
25 erwise provided for, for reviews.

1 (2) APPROPRIATIONS.—There shall be appro-
2 priated, out of amounts in the Treasury not other-
3 wise appropriated, to the Emergency Fund—

4 (A) \$2,000,000 for fiscal year 2022;

5 (B) such sums as are necessary to main-
6 tain the Emergency Fund at a level not to ex-
7 ceed \$4,000,000 for each fiscal year thereafter;
8 and

9 (C) such other sums as Congress deter-
10 mines necessary.

11 (d) FEES, REFUNDS, AND REIMBURSEMENTS.—

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

16 (2) RECEIPTS CREDITED AS OFFSETTING COL-
17 LECTIONS.—Notwithstanding section 3302 of title
18 31, United States Code, any fee, refund, or reim-
19 bursement collected under this subsection—

20 (A) shall be credited as offsetting collec-
21 tions to the account that finances the activities
22 and services for which the fee is imposed or
23 with which the refund or reimbursement is as-
24 sociated;

1 (B) shall be available for expenditure only
2 to pay the costs of activities and services for
3 which the fee is imposed or with which the re-
4 fund or reimbursement is associated; and

5 (C) shall remain available until expended.

6 (3) REFUNDS.—The Board may refund any fee
7 paid by mistake or any amount paid in excess of
8 that required.

9 **SEC. 12. AUTHORITY OF THE INSPECTOR GENERAL.**

10 (a) IN GENERAL.—The Inspector General of the De-
11 partment of Homeland Security, in accordance with the
12 mission of the Inspector General to prevent and detect
13 fraud and abuse, shall have authority to review only the
14 financial management, property management, and busi-
15 ness operations of the Board, including internal account-
16 ing and administrative control systems, to determine com-
17 pliance with applicable Federal laws, rules, and regula-
18 tions.

19 (b) DUTIES.—In carrying out this section, the In-
20 spector General shall—

21 (1) keep the Chairperson of the Board and
22 Congress fully and currently informed about prob-
23 lems relating to administration of the internal ac-
24 counting and administrative control systems of the
25 Board;

1 (2) issue findings and recommendations for ac-
2 tions to address such problems; and

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

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

11 (d) AUTHORIZATION OF APPROPRIATIONS.—

12 (1) FUNDING.—There are authorized to be ap-
13 propriated to the Secretary of Homeland Security
14 for use by the Inspector General of the Department
15 of Homeland Security such sums as may be nec-
16 essary to cover expenses associated with activities
17 pursuant to the authority exercised under this sec-
18 tion.

19 (2) REIMBURSABLE AGREEMENT.—In the ab-
20 sence of an appropriation under this subsection for
21 an expense referred to in paragraph (1), the Inspec-
22 tor General and the Board shall have a reimbursable
23 agreement to cover such expense.

1 **SEC. 13. EVALUATION AND AUDIT OF NATIONAL DISASTER**
2 **SAFETY BOARD.**

3 (a) IN GENERAL.—As determined necessary by the
4 Comptroller General of the United States or the appro-
5 priate congressional committees, but not less frequently
6 than once every 2 years, the Comptroller General of the
7 United States shall evaluate and audit the programs and
8 expenditures of the Board in order to promote economy,
9 efficiency, and effectiveness in the administration of the
10 programs, operations, and activities of the Board.

11 (b) RESPONSIBILITY OF COMPTROLLER GENERAL.—
12 In carrying out subsection (a), the Comptroller General
13 of the United States shall evaluate and audit the pro-
14 grams, operations, and activities of the Board, including—

15 (1) information management and security, in-
16 cluding privacy protection of personally identifiable
17 information;

18 (2) the resource levels of the Board and man-
19 agement of such resources relative to the mission of
20 the Board;

21 (3) workforce development;

22 (4) procurement and contracting planning,
23 practices, and policies;

24 (5) the process and procedures to select an inci-
25 dent to review;

1 (6) the extent to which the Board follows lead-
2 ing practices in selected management areas;

3 (7) the extent to which the Board addresses
4 management challenges in completing reviews;

5 (8) the extent to which the evaluation, review,
6 and recommendation-issuing methodologies of the
7 Board are consistent with established best practice,
8 as determined by the Comptroller General; and

9 (9) an impact evaluation of the work of the
10 Board, using the purposes and intent described in
11 this Act and by the Board, against the realized re-
12 sults of the Board, according to a methodology de-
13 termined by the Comptroller General, conducted in
14 a manner that is not overly disruptive to the work
15 of the Board.

16 **SEC. 14. DEFINITIONS.**

17 In this Act:

18 (1) **ACT OF VIOLENCE.**—The term “act of vio-
19 lence” means an offense described in section 16(a)
20 of title 18, United States Code.

21 (2) **BOARD.**—The term “Board” means the Na-
22 tional Disaster Safety Board established under sec-
23 tion 3.

1 (3) CHAIRPERSON.—The term “Chairperson”
2 means the Chairperson of the Board designated
3 under section 6.

4 (4) ECONOMIC INJURY.—The term “economic
5 injury” has the meaning given the term “substantial
6 economic injury” in section 7(b) of the Small Busi-
7 ness Act (15 U.S.C. 636(b)).

8 (5) INCIDENT.—The term “incident” means a
9 natural hazard or other circumstance that the Board
10 decides to review.

11 (6) INSTITUTION OF HIGHER EDUCATION AND
12 RESEARCH INSTITUTION.—The term “institution of
13 higher education and research institution” means—

14 (A) an institution of higher education (as
15 defined in section 101 of the Higher Education
16 Act (20 U.S.C. 1001));

17 (B) a National Laboratory (as defined in
18 section 2 of the Energy Policy Act of 2005 (42
19 U.S.C. 15801));

20 (C) a laboratory described in section
21 308(c)(2) of the Homeland Security Act of
22 2002 (6 U.S.C. 188(c)(2));

23 (D) the National Domestic Preparedness
24 Consortium established under section 1204 of
25 the Implementing Recommendations of the 9/11

1 Commission Act of 2007 (6 U.S.C. 1102) and
2 the members of such Consortium; and

3 (E) a research institution associated with
4 an institution of higher education.

5 (7) NATURAL HAZARD.—The term “natural
6 hazard”—

7 (A) means a major disaster, as defined in
8 paragraph (2) of section 102 of the Robert T.
9 Stafford Disaster Relief and Emergency Assist-
10 ance Act (42 U.S.C. 5122), that is naturally oc-
11 ccurring, regardless of—

12 (i) whether the President makes a de-
13 termination with respect to severity and
14 magnitude of the disaster under such para-
15 graph; or

16 (ii) the result of such a determination;

17 (B) includes any naturally occurring heat
18 wave, wind storm, wildfire, wildland urban
19 interface fire, urban conflagration fire, or dust
20 storm;

21 (C) includes any combination of events
22 covered by subparagraphs (A) and (B) that
23 causes or threatens to cause loss of human life,
24 or human or economic injury, as determined by
25 the Board; and

1 (D) does not include a technological dis-
2 aster.

3 (8) STATE.—The term “State” has the mean-
4 ing given the term in section 102 of the Robert T.
5 Stafford Disaster Relief and Emergency Assistance
6 Act (42 U.S.C. 5122).

7 (9) TECHNOLOGICAL DISASTER.—The term
8 “technological disaster” means an incident that—

9 (A) is caused by human error or malfunc-
10 tion in technology, including a dam or struc-
11 tural failure, a fire (other than a naturally oc-
12 curring wildfire, wildland urban interface fire,
13 urban conflagration fire, or arson), a hazardous
14 material incident, a nuclear accident, and a
15 power and telecommunications failure; and

16 (B) causes loss of human life, or human or
17 economic injury, as determined by the Board.

18 (10) TERRORISM.—The term “terrorism” has
19 the meaning given the term in section 2 of the
20 Homeland Security Act of 2002 (6 U.S.C. 101).

21 (11) TRIBAL GOVERNMENT.—The term “Tribal
22 government” means the governing body of any In-
23 dian or Alaska Native tribe, band, nation, pueblo,
24 village, or community that the Secretary of the Inte-
25 rior acknowledges to exist as an Indian tribe under

- 1 the Federally Recognized Indian Tribe List Act of
- 2 1994 (25 U.S.C. 5130 et seq.).

