

Republic of the Philippines
House of Representatives
Quezon City



EIGHTEENTH CONGRESS
First Regular Session

237

HOUSE BILL NO. _____

INTRODUCED BY REPRESENTATIVE ALFRED VARGAS

EXPLANATORY NOTE

Article II Section 5 of the 1987 Philippine Constitution provides that:

"The maintenance of peace and order, the protection of life, liberty, and property, and the promotion of the general welfare are essential for the enjoyment by all the people of the blessings of democracy."

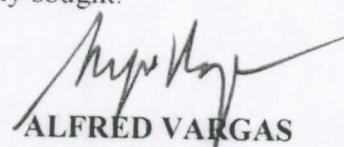
On February 20, 2017, a bus carrying the students of Bestlink College of the Philippines allegedly lost control and hit an electric post in Sitio Bayukan, Barangay Sampaloc, Tanay, Rizal. Fourteen students and the driver of the bus were killed in the incident. The authorities cite brake failure as the cause of the accident. Barely two months later, a bus travelling from Ilagan, Isabela to Candon, Ilocos Sur fell into a 100-foot ravine in Carranglan, Nueva Ecija, killing at least 32 people and injuring 45 of its passengers. Overloading and the burst of the bus's right front tire are considered as the cause of the accident.

These two tragic incidents together with the numerous transportation-related accidents recorded in the country expose the inefficiencies in regulating policies covering public transportation. They also underscore the need for an independent body to investigate such incidents and appraise and assess the operating practices and regulations of government agencies involved in the transportation sector.

This bill seeks the creation of the National Transportation Safety Board, a non-regulatory entity tasked to determine the probable cause of transportation-related accidents on land, sea, and air, including railway and pipeline systems. Other responsibilities of the Board include formulating and promulgating safety improvement standards for the observance and implementation by concerned government agencies and private entities.

This initiative will not only improve the country's transportation sector, but will also effectively prevent fatal accidents, thus, ensuring the protection and safety of the commuting public.

In view of the foregoing, the passage of this bill is earnestly sought.



ALFRED VARGAS

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AN ACT
**ESTABLISHING THE NATIONAL TRANSPORTATION SAFETY BOARD, DEFINING ITS
POWERS AND FUNCTIONS, AND APPROPRIATING FUNDS THEREFOR**

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

ARTICLE I

GENERAL PROVISIONS

SECTION 1. *Short Title.* – This Act shall be known as the “*National Transportation Safety Board Act.*”

SECTION 2. *Declaration of Policy.* – It is hereby declared the policy of the State to maintain a safe, viable, efficient and dependable transportation system as it plays an important role in nation-building and in promoting economic growth.

Consistent with this policy, the State recognizes the importance of preventing transportation accidents, thereby saving lives and property, by promoting transportation safety. Towards this end, there is a need to establish a government agency tasked with promoting safety and efficiency in the transportation of people, property and goods, and conducting investigations to determine the cause of transportation accidents.

ARTICLE II

CREATION

SECTION 3. *National Transportation Safety Board.* – There is hereby created a National Transportation Safety Board (NTSB), a non-regulatory and independent agency to implement the foregoing policies of the State. The NTSB shall be an independent

agency under the Office of the President and shall develop appropriate safety standards to be followed and implemented by concerned agencies.

It shall have the following objectives:

- (a) Improve transportation safety measures in order to prevent transportation accidents or mitigate dangers to human lives and property; and
- (b) Ensure the implementation of transportation safety standards.

The NTSB shall be the primary government body that shall investigate and determine the facts, conditions, circumstances and the causes of any major or fatal air, maritime and land transportation accident, or threat of a major or fatal air, maritime or rail accident. Accidents involving aircrafts, vessels and vehicles operated by the Armed Forces of the Philippines (AFP), or occurring within military sites in the Philippines, or those involving solely aircrafts, vessels and vehicles of the armed forces of any foreign country occurring in the Philippines shall be the responsibility of the AFP.

SECTION 4. *Jurisdiction.* – The NTSB shall have jurisdiction over all major or fatal transportation accidents or those of alarming nature resulting in serious physical injury or loss of life or property or causing substantial damage to or destruction of property or surroundings.

A major or fatal transportation accident shall include:

- (a) Capsizing or grounding of a ship or marine vessel;
- (b) Collision of ships or vessels;
- (c) Air crash or collision of aircrafts;
- (d) Overshooting or emergency landing of an aircraft;
- (e) Vehicular crash or collision of motor vehicles; and
- (f) Derailment of trains.

The jurisdiction of the NTSB shall extend to similar accident or incident with alarming magnitude such as, but not limited to:

- (a) Contamination of air or water due to pipe leakage; and
- (b) Failure or defect of transportation infrastructure facilities.

SECTION 5. *Powers and functions of the NTSB.* –The NTSB shall have the following powers and functions:

(a) Evaluate and harmonize transportation safety standards with international safety standards of applicable conventions, treaties and best practices in transportation safety including those developed by transportation agencies, and recommend its implementation to all sectors of Philippine transportation;

(b) Conduct hearings and investigations concerning any major or fatal transportation accident, and conduct special studies on matters pertaining to safety in transportation: *Provided*, That the Board shall not be prevented from making further inquiries on accidents subject of past investigations and shall require the investigating bodies to submit the pertinent records, reports, findings and recommendations: *Provided further*, That other agencies mandated to investigate concurrently such accidents shall coordinate with, cooperate with and extend its full support to the Board during the conduct of investigation;

(c) Require the involvement or collaboration of the members of the academe and the non-government organizations in investigations requiring their expertise and knowledge;

(d) Recommend to the concerned government agencies and private organizations the adoption of transportation safety standards and measures that will improve transportation safety;

(e) Prepare a written reports regarding its investigations and special studies, including the findings and safety recommendations thereon and make such reports available to the public;

(f) Assess and evaluate the techniques and methods of accident investigation and prepare and publish from time to time the recommended procedures for accident investigations;

ARTICLE III

ORGANIZATION

SECTION 6. *Composition, Qualifications, and Appointment of the Members of the Governing Board.* – The governing Board, hereinafter referred to as the Board, shall be composed of five (5) full-time members, including a Chairperson. All the members of the Board shall have extensive training and experience in their respective transportation fields and each must have adequate knowledge in investigation, analysis, and evaluation of transportation accidents, particularly in the field of accident reconstruction, safety engineering, or transportation safety.

The members shall be Filipino citizens and residents of the Philippines, at least thirty-five (35) years of age, and persons of good moral character, unquestionable integrity, and recognized probity and competence.

Within sixty (60) days from the effectivity of this Act, the President of the Philippines shall appoint the first members of the Board. Any member may be removed by the President for cause as provided for by law.

In case of incapacity or absence of the Chairperson, the members shall choose from among themselves an acting Chairperson.

SECTION 7. *Term of Office.* – All members shall have a fixed term of six (6) years. Of those first appointed, the Chairperson shall hold office for six (6) years, two (2) members shall hold office for four (4) years and the remaining two (2) members shall hold office for two (2) years. Upon the expiration of the term of office of a member, the said member shall continue to serve until a successor is appointed and qualified. Appointment to any vacancy is only for the unexpired term of the predecessor. Such vacancy shall be filled within sixty (60) days from the date of its occurrence.

SECTION 8. *Powers and Functions of the Governing Board.* – The powers and functions of the NTSB shall be vested in and exercised by the Board.

The Board shall have the following powers and functions:

(a) Cite for contempt any person in case of contumacy or refusal to obey subpoena, an order, or an inspection notice of the Board;

(b) Authorize any of its employees to enter any property where a transportation accident has occurred, or where wreckage is found, or where any such accident is located, and do all things necessary for the proper conduct of investigation. The authorized employee may inspect, at a reasonable time, records, files, processes, controls and facilities relevant to the investigation of such accident. Each inspection shall be commenced and completed with reasonable promptness and the results thereof shall be made available to the concerned parties;

(c) Enter into contracts or agreements with any person or entity as may be necessary in the conduct of its powers and functions, including the employment of experts on accidents under investigation;

(d) Use, when appropriate, available services, equipment, personnel and facilities of the other agencies and instrumentalities of the government in the conduct of its investigation;

(e) Establish and maintain an adequately staffed laboratory and ancillary facilities for the purpose of examining evidence obtained during the course of its investigation;

(f) Create advisory committees composed of qualified private citizens and government officials as may be necessary or appropriate;

(g) Authorize an autopsy to be performed and have other tests made when necessary to investigate an accident: *Provided*, that local or national laws protecting religious beliefs related to autopsies shall be observed to the extent consistent with the needs of the accident investigation: *Provided, further*, that the Board shall be provided with a copy, free of charge, of any autopsy report performed by a national or local official;

(h) Coordinate with the carrier involved in the accident so that resources of the carrier may be used to the greatest extent possible to carry out the responsibilities of the NTSB;

(i) Require government agencies and persons engaged in transportation to submit written report with respect to any matter pertinent to transportation safety, such report to be submitted within a reasonable period of time as determined by the NTSB;

(j) Promulgate, in coordination with the relevant law enforcement and investigating agencies, the necessary protocols in the conduct of its investigations;

(k) Delegate any of its powers and functions to the heads of the different bureaus, divisions or offices of the NTSB to further facilitate the implementation of the provisions of this Act; and

(l) Accept voluntary and uncompensated services, gifts or donations notwithstanding any other provision of law to the contrary.

SECTION. 8. *Chairperson; Duties and Powers.* — The Chairperson shall be the chief executive and administrative officer of the NTSB. The Chairperson shall:

(a) Administer oaths and issue *subpoena duces tecum* or *subpoena ad testificandum*: *Provided*, that subpoenas shall be issued under the signature of the Chairperson and may be served by any officer, personnel or employee of the NTSB as designated by the Chairperson;

- (b) Execute and carry out the policies, decisions, orders, and resolutions approved by the Board;
- (c) Direct and supervise the operations and internal administration of the NTSB, including enforcement of disciplinary actions;
- (d) Sign appointments, make temporary assignments, rotate and transfer of personnel in accordance with law;
- (e) Prepare the annual budget of the NTSB for approval by the Board;
- (f) Supervise the expenditures of the NTSB;
- (g) Delegate his/her authority, in whole or in part, to other officials of the NTSB in accordance with Executive Order No. 292, otherwise known as the Administrative Code of 1987, as amended, and the rules and regulations of the Board; and
- (h) Perform such other functions as may be authorized by the Board.

SECTION 10. ***Quorum.*** – The presence of at least three (3) members shall constitute a quorum and the majority vote of members present shall be necessary for the adoption of any rule, ruling, order, resolution, decision or other acts of the Board.

SECTION 11. ***Compensation.*** – The salary of the Chairperson and the members of the Board shall be the same as those of the Chairperson and members of the different Constitutional Commissions. They shall be entitled to representation and transportation allowances under existing laws.

SECTION 12 ***Offices of the NTSB.*** – For the proper management and effective implementation of the objectives of the NTSB, the following offices are hereby established:

(a) ***Office of the Executive Director.*** – The NTSB shall have an Executive Director who shall be appointed by the President of the Philippines upon recommendation of the Board. The Executive Director must be at least thirty-five (35) years of age at the time of appointment, a member of the Philippine bar, and engaged in the practice of law for at least ten (10) years prior to the date of appointment. The appointee must not have been a candidate for any elective position in the elections immediately preceding the appointment.

The Executive Director shall assist the Chairperson in the discharge of his functions as executive and administrative head of the Board and be responsible for the day-to-day management of the NTSB; record and report the proceedings of the Board; have custody of records, maps, profiles, reports, and other documents filed in connection with any case or proceedings before the NTSB; supervise the NTSB laboratory; and, perform such other functions as may be assigned by the Chairperson or the Board.

(b) *Office of Aviation Safety.* – The Office of Aviation Safety shall conduct investigations of all aviation accidents and submit the corresponding reports and necessary transportation safety recommendations to the Board.

(c) *Office of Maritime Safety.* – The Office of Maritime Safety shall conduct investigations of all maritime accidents and submit the corresponding reports and necessary transportation safety recommendations to the Board

(d) *Office of Surface Transportation Safety.* – The Office of Surface Transportation Safety shall conduct investigations of road transportation, railroad, and pipeline accidents and submit the corresponding reports and necessary transportation safety recommendations to the Board.

(e) *Office of Transportation Safety Standards.* – The Office of Transportation Safety Standards shall prescribe safety standards in all transportation systems; establish and update transportation safety standards through continuing research and in-depth studies; and oversee the implementation of the safety recommendations program of the NTSB.

(f) *Office of Research and Engineering.* – The Office of Research and Engineering shall provide technical advice and services to the NTSB; conduct research and carry out analytical studies and tests on all aspects of the NTSB's transportation accident investigation, accident prevention and safety promotion activities; conduct safety studies on specific safety issues; perform statistical analyses of transportation accidents and incident data; maintain archival records of the NTSB's accident investigation and safety promotion activities; and, support the NTSB's data processing, computing and information management requirements.

(g) *Office of the General Counsel.* – The Office of the General Counsel shall provide legal advice and assistance to the NTSB and its officers, personnel and employees; prepare rules, opinions and orders; and represent the NTSB in court actions and other proceedings.

(h) *Office of Public Affairs.* – The Office of Public Affairs shall provide the general public, including Congress and the national agencies, the transportation industry, and the media with current and accurate information concerning the activities, programs and objectives of the NTSB.

(i) *Administration Office.* – The Administration Office shall provide administrative support in the following aspects: budget; accounting and audit; human resource management; information and automatic data processing management; property, space, communications, facilities and transportation management; and, printing, publications, correspondence, procurement, contracting, and accident inquiry services.

SECTION 13. *Personnel.* – Subject to civil service laws, rules and regulations, and the approval of the Department of Budget and Management, the Board shall determine its own staffing pattern and the number of personnel of the organization. The Board shall, in accordance with existing laws and policies, select, appoint, employ, and fix the compensation of such officers and employees, including investigators, and attorneys, as may be necessary to carry out its powers and duties.

SECTION 14. *Prohibited Interests.* – The Chairperson, members of the Board, officers, and employees shall not, during their tenure, hold any other office or employment. Neither shall they engage in the practice of any profession or in the active management or control of any business which, in any way, may be affected by the functions of their office, nor shall they be financially interested, directly or indirectly, in any contract with, or in any franchise or privilege, granted by the government and its subdivisions, agencies or instrumentalities, including government-owned or controlled corporations or their subsidiaries. They shall directly avoid conflict of interest in the conduct of their office.

No spouse or relative by consanguinity or affinity within the fourth civil degree and no law, business or professional partner or associate of the Chairperson or Members may appear as counsel or agent on any matter pending before the Board or transact business directly or indirectly therewith.

The disqualification shall apply during the tenure of the official concerned and one (1) year thereafter.

Any violation of this section shall be a ground for removal from the NTSB as well as administrative, civil or criminal prosecution under applicable laws.

SECTION 15. *Recommendations of the Board.* – The Board shall submit a recommendation regarding transportation safety to the appropriate government agencies of which they shall respond to each recommendation formally and in writing not later than thirty (30) days after receipt thereof. The failure on the part of the concerned agency to abide by the recommendation of the Board without any justifiable reason shall be a ground for administrative liability of the head of the agency or concerned official as well as other sanctions as provided under existing laws.

The Board shall recommend to the appropriate government agencies the recall of any defective means of transportation and to cause the installation of the required part or parts to make it safe and notify not only the distributor or purchaser but also the public of such defect. It shall also recommend the grounding of any defective means of transportation pending the investigation of the cause or nature of its defect. Moreover, the Board may also recommend the denial, amendment, modification, suspension, or revocation of a certificate of public convenience, registration or franchise if the means of transportation, including the activities of a commercial carrier, have been found negligent, as well as suspension or revocation of license, as the case may be.

In its report, the Board shall include the accountabilities of officials and employees of regulatory transport agencies who fail to properly implement the transportation safety standards provided under pertinent or applicable conventions, treaties, laws, rules and regulations.

SECTION 16. *Disclosure, Availability, and Use of Information.* – (a) Except as provided in this section, any copy of record, information or report of investigation submitted to the NTSB shall be made available to the public upon request and payment of reasonable cost;

(b) The Board shall not make the records available for purposes other than accident or incident investigation, unless the appropriate authority for the administration of justice determines that their disclosure outweighs the adverse domestic and international impact;

(c) The Board shall not disclose any information related to a trade secret except:

1. To another department, agency, or instrumentality of the national government, when requested for official use;
2. To a committee of Congress having jurisdiction over the subject matter to which the investigation is related, when requested by that committee;
3. In a judicial proceeding under a court order that preserves the confidentiality of the information without impairing the proceeding; and
4. To the public: *Provided*, That such disclosure shall be for the protection of public health and safety: *Provided, further*, That the disclosure shall be made in a manner designed to protect and preserve its confidentiality.

(d) The Board shall not publicly disclose any part of a cockpit voice recording or transcript of oral communications by and between flight crew members and ground station related to an accident or incident investigated by the NTSB: *Provided*, That the NTSB shall make public any part of the transcript that it deems relevant to the said accident or incident:

1. When the NTSB holds a public hearing on the accident or incident; or
2. When the NTSB makes public its findings relative to the said accident or incident.

(f) Except as provided in Section 15 (b) of this Act, the Board shall maintain the confidentiality of, and exempt from disclosure:

1. Laboratory records provided to the Board; and
2. Medical information related to the test or a review of the test voluntarily provided to the Board by the tested officer or employee.

(g) The Board may use a laboratory record of a person made available to it under this Act to develop an evidentiary record in its investigation of an accident or incident where the fitness of such person is at issue.

SECTION 17. *Non-admissibility as Evidence.* – No part of a report of the NTSB related to a transportation accident investigation may be admitted into evidence or used in a civil action for damages resulting from a matter mentioned in the report. Furthermore, the NTSB shall have immunity from suits arising from its investigation, pronouncements, and findings.

ARTICLE IV

MISCELLANEOUS PROVISIONS

SECTION 18. *Relationship with Other Government Agencies.* – (a) Nothing in this Act shall deprive other government agencies from performing their intrinsic functions, including the investigation of accidents or making inquiries thereon: *Provided*, That the NTSB, at its discretion, may require the submission of the records, findings, and recommendations of the investigation or inquiry. For this purpose, the agency concerned shall transmit to the NTSB, within fifteen (15) days from receipt thereof, said records, findings, and/or recommendations;

(b) In the exercise of its powers, the NTSB shall take into consideration the provisions of any treaty entered into by the Republic of the Philippines with other countries relative to the investigation of accidents over which the NTSB assumed jurisdiction.

SECTION 19. *Annual Report.* – The NTSB shall submit to both Houses of Congress an annual report at the end of each year.

SECTION 20. *Privacy Protection.* – Nothing in this Act shall be construed as weakening the protections mandated under Republic Act No. 10173, otherwise known as the “*Data Privacy Act of 2012*.”

SECTION 21. *Seal.* – The NTSB shall have a seal which shall be officially recognized.

ARTICLE V

FINAL PROVISIONS

SECTION 22. *Transportation Safety Fund.* – (a) There is hereby created a Transportation Safety Fund, hereinafter known as the Fund, to be deposited in a special trust fund to be administered by the NTSB. The Fund shall be sourced from:

1. Savings from the annual operating expenses of the NTSB; and
2. Monetary donations and gifts received by the NTSB under Section 7 of this Act.

(b) Subject to the usual accounting and auditing rules and regulations, the Fund shall be used exclusively for the following purposes:

1. Operational expenses in investigating transportation accidents;
2. Studies and research on transportation safety;
3. Reimbursement of extraordinary expenditures and expenses of government and private agencies and persons mobilized by the Board in investigating transportation accidents; and
4. Training and related conferences to enhance the expertise of the officers, personnel and employees of the NTSB.

SECTION 23. *Appropriations.* – The amount of Thirty million pesos (P30,000,000.00) is appropriated to finance the operation of the NTSB for the first year out of the funds of the National Treasury not otherwise appropriated. Thereafter, such amounts as may be necessary and sufficient to finance its operations and activities shall be included in the annual General Appropriations Act.

SECTION 24. *Implementing Rules and Regulations.* – Within sixty (60) days from the effectivity of this Act, the NTSB, in coordination with the Department of Justice, Department of Transportation, Department of Public Works and Highways, Department of Energy, Department of Trade and Industry and the Philippine National Police, shall promulgate the implementing rules and regulations for the effective implementation of this Act.

SECTION 25. *Separability Clause.* – If any provision or part of this Act is declared invalid or unconstitutional, the remaining parts or provisions not affected thereby shall remain in full force and effect.

SECTION 26. *Repealing Clause.* – All laws, decrees, orders, proclamation, rules and regulations, or parts thereof, which are inconsistent with any provision of this Act are hereby repealed, amended, or modified accordingly.

SECTION 27. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,